

A *Just*
VINDICATION
 OF THE
KING's Sovereign Rights :

Together with
 A Justification of His *ROYAL Exercises* thereof,
 in All Causes, and over All Persons *Ecclesiastical* (as well
 as by consequence) over All Ecclesiastical *Bodies Corporate*,
 and *Cathedrals* : More particularly applied to the *KING's*
 Free Chappel and Church of *SARUM*.

Upon Occasion of
 The Dean of *SARUM's* Narrative and Collections, made by
 the Order and Commands of the most Noble and most Honourable
 The *LORDS Commissioners*, Appointed by the *KING's Majesty*
 for Ecclesiastical Promotions.

The first Decree was dated Nov. 25. & second Dec. 6. 1682.

By way of Reply unto the Answer of the Lord Bishop of Sarum,
 Presented to the aforesaid most Honourable *LORDS*.

Consilium Regie Prærogative cum Magnâ Chartâ Anglorum.

THE FIRST PART.

Printed only to save the Labour of Transcribing several Copies,
 and to prevent the Mistakes thereby apt to be incur'd, and meerly
 for the Satisfaction of private Friends, who either *want* or *Desire* a
 most Impartial Information of That Affair.

Thomas Pierce

Every Subject Swears, who takes the Oath of Supremacy ;

“ That to his Power he will Assist and Defend all Jurisdictions, Pri-
 viledges, Pre-eminencies, and Authorities, granted or belonging
 to the King's Highness, his Heirs and Successors, or united and
 annexed to the Imperial Crown of this Realm.

The Extractors or Impugners of this Supremacy, in any part of it, are ipso facto to be ex-communicated, & bound to be Absolved by 3. such Bishops, who by him, before their Repentance & Publick Recantation. Canon. 2. Jac. Reg. Angl. p. 1645.

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General Table of the Contents.

In the First Chapter,

THE Dean of Sarum superstruc'ts the Ecclesiastical Rights in *Theſi*, (to things of humane Establishment) upon the Foundation of the *Regal*, as upon a Rock which cannot fail them. And also the Rights of the Bishop of Sarum in Hypothesis, upon the only sure Foot which it can possibly stand upon. The *Moral Necessity* of distinguishing (with the Judicious Bishop Sanderſon) between an *Original*, and *Derivative* Right: As also (with the famous Chief Justice Coke) between a *Subordinate*, and the *Supreme*. The KING in Law is The Founder, Proprietor in Chief, and Advower Paramount, of All Arch-Bishopricks, and Bishopricks, Cathedrals, Prebends, and of All contained in them. The Despotical Exercise of the Regality, as in all Other Churches, so Above All in the Church of Sarum. The Church is never so much Betray'd, as by Them who assert a Churchman's Right, with an Exclusion of the King's; and strive to take down the Stairs, to which they owe their own Advancement. The Dean of Sarum does not ascribe an *Higher* Prerogative to the KING than Judge Coke himself, and Bishop Sanderſon, the Common, and Statute, and Civil Laws; yea, no more than Pope Nicolas to Edward the Confessor, and his Successors, Kings of England: And does but distinguish (with the most excellent Paolo Sparpi, That Oracle, Life, and Soul, of the most famous Venetian Senate) between Dominion, and Dispensation. Where any Bishop is Dispensator, the KING is Dominus.

In the Second Chapter,

THE King's Castle at Old Sarum, and the King's Free-Chappel in it, and the Dean of it, Before a Cathedral Church was built, Before a Chapter was created, Before the Indowments of the Sovereign and Subordinate Founders, and during all Bishop Herman's Time, are made Apparent and Undeniable, by the Best and First Authors printed, by which the Written Registers can be confirmed. And That *Registre of Registres*, which was cited by the Dean, but cheaply slighted by the Bishop, is shewed to be as Authentick, as any his Lordship can produce, and for All the same Reasons, which any Ordinary can urge for another *Registre*. Florentius of Worcester, Eadmerus, Will. of Malmsbury, Roger Hoveden, Simeon Dunelmensis, (All elder than Mat. Paris) and

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M. Paris

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Paris Himself, with several others, do All conspire (*in antecessum*) to prove the Authority of the Deans Registre, malgre Those who dis-esteem it, for appearing too much in the *Royal Cause*. Truth justified by its *Opposers* (before they are aware, and against their Wills) in the very *Act* of their *Opposition*. Two or three *Bishops*, and many *Earls*, had the King's Castle only as *Keepers*, and during pleasure; Thence 'twas an *Ambulatory Trust*, as is demonstrated by an *Induction*. The Castle stood on the King's Soil. The Lord Bishops *Margin* does only serve to *Confute* his *Text*.

In the Third Chapter.

THE Dean of *Sarum*'s Jurisdiction in his *Peculiars*, and particularly in *That* of *Salisbury Close*, (which must be distinguished from the *City*, which is the Bishops under the KING) whereof the Dean is the Sole Immediate *Ordinary*, was ever *Exempted* from the Bishop, by the Charter of the *Supreme* and *Subordinate* Founder of the Cathedral, The *King*, and *Osmund*. In comparison with which, The most unlawful Composition was but a *Novelty*. Almost *Three Hundred* years Younger, than the Great Fundamental Statute. That Composition was a *Conspiracy* of *Pope Boniface the Nineth*, with the Then-Bishop, Dean, and Chapter, against whatsoever is Great, or Sacred. Against the *Good Word* of GOD. Against the *Supremacy* and *Prerogative* of the KING. Against both the *Common* and *Statute Law* of the *Land*. Against the very *Foundation*, whereupon the whole *Colledge* and *Church* is laid; & together with which, it must *Stand*, or *Fall*. Against the *Souls* of Them that *Made* it, and have *Acted* according to it, both in regard of their own *Oaths*, and the *Founder's Curse*. And (by reason of *All the Nullities* and *Inconsistencies* that are in it) against *Common Sense*, and against *It Self*. The Dean of *Sarum*'s Jurisdiction, exclusively of the Bishop's within the *Close*, is strongly proved by the *Confessions* of the present *L^d Bishop* to the Dean, *Before* his *Lordship* had been *Incensed* by the Dean's *Services* for the *King*, & by his dutiful *Obedience* to the *Lords Commissioners* *Command*. 'Tis farther proved by *All Decisions* of Authority, *For* the Dean's evident Right, *against* the Bishop's *Invasion* of it. An instance of it in the *Sentence* of the *L. Chancellor* of *England*, & the *Arch-Bishop* of the whole *Province*. The *Mischievous Effects* of the Composition. Of no use to its *Observers*, unless to make them in danger of incurring a *Premunire*. The *Absolute Necessity* of a *Royal Visitation*, to set all Right.

In the Appendix.

MR. Yeats, in several Letters to persons of Honour, and lesser Quality, doth strongly assert unto himself his whole design of the *Four Heads*. He irrefragably proves the Dean of *Sarum*, not to have had an *Hand in*, or *Assent* to, or *Connivance* at, or *Knowledge* of his Design, *Antecedently* to the *Command* of the *Lords Commissioners*, or to the *First Notice* sent him by the *Lord Bishop* and the *Chapter*. His *Two Inducements* to it from his *Right Reverend Diocesan*; and his *None at all* from the Dean of *Sarum*.

A Parænetical
P R E F A C E
T O T H E
IMPARTIAL and UNPASSIONATE
READER.

Christian Reader,

WHY a Book at first printed for private Ends only, is now permitted to go abroad for somewhat a more publick Use, the following Lines of this Preface will give thee a Satisfactory Reason.

§. 1. Certain Men of mean Spirits, and base *Supercherie*, (for That *French* Word can alone expresse it,) taking Advantage of my Absence and my Decumbency with the Gout, assaulted me lately in my Great Sickness, just as *Simeon* and *Levi* fell on the *Sichemites* when they were Sore. They knew that nothing could so much grieve me, or add so much Sorrow to my Affliction, (which the Agonies of the Gout must needs be called,) as their *Slandering the Footsteps of God's Anointed*, whom they know to be Dearer to me, than he is Hateful unto themselves. They have at last behind my Back, and whilst I was dying in their Opinion, so Disrespected His Royal Person, and (what is at least as dear to him,) His Sovereign Rights, as in all the Months passed of the Visitation, they never durst attempt the doing, whilst I was Present, or but in Health, and as much dreaded for my Loyalty, (tho not for any thing else in me,) *ac si Hannibal esset ad Portas cum Manu Armata secundâ Vice*.

§. 2. Their *Personal Injuries* and Indignities cast upon me behind my Back, had never moved me any farther, than to Pity them, and to Pardon them, and to Pray to God for them; to whom my Prayer was Daily This, that He would powerfully Convert, that He might Mercifully Forgive them. I knew their Injuries were to be Punished as well as Pardoned, (especially those Committed by my Inferiors,) And I Did punish them with my Contempt; I saw it was a great Cross and Affliction to them, that being High in the Instep and Dr. *Whitby's* own Followers, they could not provoke me to any more, than a silent Scorn. For I thought it as much below me, as *Socrates* thought it below Himself, to give an Ass kick for kick. Wherein as I had the Approbation of many the Learnedest of my Brethren, (Members of the Greater and more Venerable Chapter,) so my Vigilant *Locum-Tenens* (I mean Canon Horton)

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and my Faithful Sub-Dean (I mean Canon *Kent*,) found out wayes in my Absence to make the Factioners asham'd of their Misbehaviours, to make them off their own *Lictors*, and their Insolence towards their Governour its own Correction. Such was their Faithfulness and Prudence, wherein I fully acquiesced, and proceeded no Farther in doing Justice to my self for my Personal Wrongs, which I was of Opinion I might lawfully pass-by in my Miscreant Children. *I say my Children*, because *Decanus est Totius Collegii Pater*, (says Bishop *Jewell*,) & *Sanctæ Societatis Vinculum*.

* Ο δὲ πῶς
ἔπος ἐδρυν
ἔρρηξε φωνῶν
Εἴη δὲ, Ἄν-
θρωπος, μὴ
κτείνῃ Κεῖνον.
Herodot. l. 1.
c. 85.

§. 3. But when at last they strike Home at The King Himself, and deeply wound him in his Prerogative (Individual with Himself,) I can no more forbear to shew my Loyal Resentment and Indignation, than the * Dumb Son of *Cræsus* could hold from Speaking and Crying out, when he saw a Man about to Destroy his Father. Hear O Heavens, and give Ear O Earth! Two or Three obliged Church-men, and highly preferred by the King too, have been so bold and blasphemous in the hearing of many Witnesses, as to call the *Solid Proof and the Just Vindication of The King's Sovereign Rights* [A Nefarious Libel.] A Book avowed by its Author from the Beginning to the End : A Book as Inoffensive as *The Whole Duty of Man*, whereof the Author is *Concealed* : A Book occasion'd by The Command and Express Commission of the most Noble Lords Commissioners : A Book approved of and applauded by Eminent Lawyers and Great Divines : A Book which sets the King's Prerogative no whit higher than my Lord *Coke*, an Unexceptionable Lawyer ; no whit higher than Bishop *Sanderſon*, the most exact Casuistical Divine ; nor so high as Sir *Thomas Ridley*, the Great Civilian : A Book which stops the wide Gap that was made to Sacrilege : A Book which Vindicates the Rights as well of the Church, as of the King : A Book composed, not by a *New*, but by an *Old* Suffering Royalist, who in the worst of all Times asserted the King for the King's Sake ; and made it his Choice to suffer Affliction with the People of God, rather than to enjoy the Pleasures of Sin, and Sinful Compliances for a Season : Lastly, A Book whose main Tendencies are as well to the King's Safety, as to the Dutiful Deportment and Peace of Subjects. Now whether such a Book as This can without Blasphemy or Treason be termed by the Church-Whiggs a *Nefarious Libell*, and that for no better Reason, than its setting The *Crown* above the *Mitre* : I appeal to all Learned and Loyal Readers.

§. 4. If some Mens *Consciousness of Guilt and Self-Conviction* have made them Libellers of themselves, by their Particular application of General Passages in the Book, they are to thank themselves only for that *Discovery* of themselves. When an Author hath shot at *Rovers*, and one by Accident has been hit ; he must not be angry with the *Arrow*, as if it had been its own *Archer* : nor importunately conclude he was *Aimed at*, when (the very truth is) he only stood in *Harms-way*. There was never a Book or Sermon hitherto published in the World, rebuking Vice, and Confuting Error, which some or other Guilty Creatures may not thus call a *Nefarious Libell*. Which makes me say, the Old Proverb is still as Pertinent, as it is True, that *'Tis a dangerous thing to write, or but to speak of an Halter, in a Jealous Man's House whose Father was Hang'd*. There is a mention in the Appendix, (though not in the Book it self) of *Murther, Simony and Incest* ; but All is in *General*, and All by way of *Illustration*. I did not say to any one, as *Nathan* to *David*, (One Prophet unto Another, yea a Lesser unto a Greater) *Tu es Homo, Tūcū art the Man* : and do wonder, Conscious Creatures should be such Traytors unto themselves, as not to keep their own Counsel ; but to say in Effect, though not formally and in plain words, *Nos sumus Homines, We are the Men*.

§. 5. Dares any man be so bold, as to call the Book of Sermons which was Printed by Bishop *Ward*, a *Nefarious Libell*, for that the first of his six Sermons

To the Impartial and Unpassionate Reader.

is against the Resistance of Lawful Powers, and the last against Ingratitude? I hope none of his Readers will be so Illogical, or so Unjust; however the first Reflects severely upon such as had a share in the Great Rebellion, And the last as severely upon as many as were obliged with Acts of Indemnity and Oblivion; nor only so, but highly promoted by the King to several Offices and Places of Wealth and Honour, and yet could find in their hearts to Requite His Majesty (their most Munificent Lord and Master) with *Defraudations*. I declare my Abhorrence of such irregular wayes of making *Nefarious Libells*; and say with the Excellent Observator, *That Application makes a Libell, where the Writer made None*. A man can hardly draw the Figure of what is *Fraudulent*, and *False*, and *basely Compliant with All Times and Sides*, but many looking in the Glass will see the Monogram, and the Lines of their own Image in it: converting the Picture and Resemblance of All they are Conscious of, to Themselves. But the Greatest of Criminals cannot so Consecrate his Crimes, as to give a *Supersedeas* to Press, or Pulpit. Dangerous Errors must be Refuted, and Damnable Wickedness Stigmatiz'd, notwithstanding the *Self-Condemed* do cry out *Libells*.

§. 6. Christian Reader, if Thou receivest either Profit, or Pleasure, in full proportion to the Pains thou shalt think fit to take, in Contemplating the Eviction of *The King's Sovereign Rights*, (In and Over the Church of England) Thou art to thank the *Ingrateful Enemies of the King and the Church* for it, who gave an Absolute Necessity, as well to the Work, as the Publication. I mean *The Protestant Reconciler* in special manner, (as he was pleas'd by an *Antiphrasis* to call Himself,) who boldly gave it under his hand to the Lords Commissioners, That He and his Followers could not find any * Colour, or Pretence, whereby to assert any such Royal Right, Jurisdiction, or Patronage of His Majesty, as had been owned by His Majesty in His late Absolute Disposal of All our Residentiaries Places without Exception. But that on the other side they found several Instances and Proofs to the Contrary.] Yea as if this were not enough, to shew an Hatred of the plain Truth, a Deliberate Malice to the Royal Prerogative, (to which alone they owe their own Admissions into Residence,) and a most wilful Falsification against his own perfect knowledge: He gave it also under his Hand, [*That our Kings in some of their Letters do seem Expressly to Disclaim any such Despotical Power as is pretended.*] His wilful Sin in which Assertions I briefly shew in the Following Book, (*ch. 1. § 3, 4 & 5.*) and shall evince more at large, if ever I publish the *Second Part* concerning the King's Sovereign Rights in the Church of God. I am sure I can demonstrate to the most obstinate Antimonarchists who have dared to *disown and deny the Light*, That the King hath as much Right to dispose (as he hath done) of All our Residentiaries Places, as of *Bishopricks*, and *Deanries*, or of *Fat Bucks and Does* in *St. James's Park*. And if I say, 'tis *Below the King*, or a *Lessening of Sacred Majesty*, to permit any Election of Dean and Chapter, I have several * Acts of Parliament to bear me out in the Expression. To which I add, That our Monarch's Right in Law, To † *Exempt what Place he will from All Episcopal Jurisdiction*, was the greatest Blow to Popery, which (when Popery was Rampant) was ever given. And for any Bishop to Visit a Place Exempted by the King from all Episcopal Jurisdiction, is not only for a Bishop *To Lord it over God's Heritage*, But 'tis to Lord it over the King, The Anointed of the Lord, God's Vicegerent upon Earth.

* The first Paper was dated Jan. 20. 1682. The second Feb. 3. 1682.

* 25 H. 8. c. 10. and 1 E. 6. c. 2. *Raft. 9. Win. 4. §. 15.* † Coke 1 Inst. 12. c. 11. §. 136. f. 96. a. & f. 344.

See now the Selfishness of the Men, who (when their own turns are served) would have the Royal Dore shut, at which they Enter'd; the very Scaffold taken down, by which they Climb'd; the Prerogative laid aside, to which they owe their Possession of Creature Comforts; and even now that in effect they have *disowned their Right* to them. For *Nemo dat quod non habet*. No man living can have a Right unto his Residentiary's Place which he had of the

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King's Gift, if the King had no Right to give it. If the King gave it only *de Facto*, but not *de Jure*, and *According to Law*, (as the said Papers do import He did Not,) then Dr. *Whitby* and his four Followers do hold their Places by *Usurpation*, and by the King's *Permission only*. Who (I am certain) hath a Right to cast them out, if he had none to put them in.

These (Christian Reader) are the Men thou art to thank for this Preface, (if any thanks belong to it,) Not the Author, or Editor, who only serves thee at present *by their Compulsion*: Though he is really in himself, as he ought to be, that is, heartily, and without fawning,

From North-Tidworth in
Wilt. Aug. 10. 1684.

*Thine as far as thou art Loyal,
and keepest thy Oathes of Fi-
delity in every Part,*

Thomas Pierce

D. S.

A

VINDICATION

OF THE

King's Sovereign Rights,

As in all Cathedral Churches, so especially in the Church both of Old and New *Sarum*, as asserted in the Dean of *Sarum's Narrative*, drawn up and presented to the most Noble Lords Commissioners, and by way of Reply to the Lord Bishop of *Sarum's Answer*.

CHAP. I.



Having laboured of Late under the Obloquie of Some, and the Ill-will of Others, and the impotent Revengefulness at least of One, for having delivered what I had found of the King's Sovereign Rights, and His Royal Exercises thereof, as well in *All Causes, as over all Persons Ecclesiastical, All Bodys Corporate and Cathedralgs*, more particularly applied unto His Majesty's Free Chappel and Church of *Sarum*; tho I did nothing of my self as a *Voluntier*, but by *Commission* and *Command* from the most Noble and the most Honorable the Lords Commissioners, appointed by his Gracious Majesty for Ecclesiastical Promotions, (whom God knows I did believe it my bounden Duty to obey;) I am induced to give the Reasons of my having made so bold with my *Master's Enemies* and mine own, as to be dutifully Loyal without their Leave. I was loth to ask of them, by whom I was sure to be denied; And did Presume I might as pardonably assert the King's and the Churches Rights, now that the King is on His Throne, and the Church less Militant, as I did safely and with Success, before the Great Year of Their Restauration.

Sect. i. First I was of an Opinion (before I had it from a most excellent and most Noble Lord Commissioner) *That 'tis the Duty of every Subject, and especially of the King's Chaplains, to discover all they know of His Majesties Prerogative, tho not Commanded by Authority, as I had been.* Which saying of a Judicious and a most Honourable Lord (in the Council Chamber, and elsewhere,) is agreeable to another of two Lord Chancellors in their times, whereof the first was the Lord *Bacon*; from whom 'twas borrowed by the Second, who used it in his Speech to Sir *Edward Thurland* when made a Baron of the Exchequer. To wit, *That the Subjects of England in General, as well as the Judges in particular,*

* Coke Instit.
Part. 1. Sect.
648. 344.

† Instit. Part. 4.
C. 1. P. 44.

|| Rot. Parl. 42.
Ed. 3. n. 7.
ibid p. 14.

(and particularly the Judges of Ecclesiastical Courts, such as is the Dean of Sarum,) are bound to maintain the Kings Prerogative, and not distinguish it from the Law. The King's Prerogative being Law, and (in the words of Chief Justice * Coke,) The Principle part of the Common Law; as That from which all other Laws are derived, and on which they do depend. With these I compared that famous Saying of a full Parliament, which I found cited by my Lord † Coke too, That no King or Kingdom can be safe, but where the King has Three Abilities. 1. To live of his own, and defend his Kingdom; 2. To assist his Confederates, and 3. To reward his deserving Subjects. From whence I thought it would follow, that to take from the great Number of Ecclesiastical Promotions in the Kings Gift, is to act against the safety of King and Kingdom. 'Tis reckoned one of those things which even a King cannot do Lawfully, and which a || Parliament cannot consent to. Besides I thought it most unworthy, that he who had not been afraid in the worst of Times, and without a Warrant, and under none but God's Protection, to defend the King's Rights and the whole Church of England, by many Arguments in Print, (when some New Royalists durst not join in a Petition for the King's wished Return, for fear (as they then said) of setting their hands to their own Ruine, as having reason to suspect the Restauration would be General, that All Usurpers must be Ejected, and all Ejected for their Loyalty would have their own, which passed with some for an heavy Judgment,) should now descend unto the Meanness of hiding himself behind Another, and behind such another as he knew to be Unqualified for such a service, as I was irrationally suspected and most maliciously reported to have engaged Another in. No, the Pretenders to that Suspicion, and the Inventers of that Report, did onely design by such Baseness to lessen the merit of my Obedience to the Lords Commissioners Injunction, and of my Dutiful Regard to the King himself, towards whose Service it was my fault, (as 'tis my Apology and Excuse with a sort of men,) that I did not go till I was sent, nor mend my Pace till I was driven.

Ten short, but pithy Lessons.

Sect. 2. Next I had learned by my perusal of Keble's Statutes at large, and of Chief Justice Coke's Institutes, (to name no more in this Place)

* 25 H. 8. and
1 Ed. 6. 2.

† 1 Instit. l. 2.
c. 6. f. 94. 97.
And l. 3. c. 11.
Sect. 648. p.
344.

|| Dr. Burnet's
Hist. of Reform-
ation. Part. 1.
p. 265. and
Part 11. p. 2. 7.

* 1 Ed. 6. cap.
2. Rast 9. Win-
gat. Sect. 15.
25 H. 8. c. 10.

† See the 14th.
Collect. to the
1st part of the
Hist. of Reform.
p. 184, 185.

* That the Gift of all Bishopricks, and Nomination of Bishops did ever belong to our Monarchs, both before, and since the Conquest, as in Right of the Crown.

My Lord Coke gives the Reason from this trite Maxime in the Law, † That all our Archbishopricks and Bishopricks, were and are of the King's Foundation. That at first they were therefore all meerly Donative, meerly by the Delivery of a Staff, and a Ring. Never Elective till King John, who Reigned

not without the Murdering of Arthur of Britain the Rightful Heir. || That it was again taken away by H. 8. and Ed. 6. in whose Reigns all the Bishops were required to take out New Commissions for their Bishopricks, and so to hold them onely as Delegates in the King's Name, and

not for Life Absolute, but During Pleasure. And Archbishop Cranmer gave an Example to the Rest. * That Elections by Deans, and Chapters are declared by Law to be No Elections, but by a writ of Conge d' eslire have onely Colours and Shadows, or Pretenses of Elections serving to no Purpose, and seeming derogatory and Prejudicial to the King's Prerogative Royal, &c.

† That Bishop † Bonner declared under his hand, He held his Bishoprick of London, of the King's Bounty alone, during the King's Pleasure only, and that he would again deliver it up, when it should please the King to call for it.

7. That our Monarchs have full power by Law, to Commission whom they please, & for what time they please, (without any stint) to Visit All Cathedral Churches, All Arch Bps, & Bps, & to Reform, Order, Correct, and Amend whosoever is amiss in any of them. Nor only in All, but over All, to exercise

Aliz. c.

7. 18. 0

5. H. 8. c. 19. 10

6. H. 8. c. 1

8 That * all the Temporalities of Archbishopricks and Bishopricks in all Vacancies (which our Kings made when it pleased them) ever came to the King as Founder. He being Patronus and Protector Ecclesiæ in so high a Prerogative incident to his Crown, that he cannot part with it, no Subject can have claim to it either by Grant or by Prescription. That || the Lands of the Church were all at first given by gracious Princes, as may appear from the first Book of Justinian's Code, where Laws are recorded for the conferring, and also for the Conserving of them. Which is also the Affirmation of the most excellent Paulus Sarpus.¹⁰ That * if the King and a Common Person have joyned in a Foundation, the King is the Founder; because it is an Entire Thing. For the Truth of which Maxime that renowned Judge cited 44 Ed. 3. c. 24. from whence I inferred within my self, that King H. 8. (rather than Wolfey) was Founder of Christ Church in Oxford, tho' its well enough known that Wolfey was a Co-founder: Or, Founder Subordinate to the Supreme. So William the Conqueror (rather than Osmond) was the Supreme and Sovereign Founder of the Cathedral Church of Old Sarum; tho' by the King's Bounty, as well as Leave, St. Osmond built, and greatly indow'd it with such Revenues, as he || held of his Lord and Master during Pleasure and by Knights Service. For the Conqueror's Soldiers (whereof Osmond of Say was one) held all the Lands which he gave them under military Service, not as properly Freeholders, but as Lords in Trust only, and according to the King's Pleasure, thereby hoping to engage them to a close Dependence upon the Crown: as learned Selden relates out of Matthew Paris, and his learned * Annotator does give the Reason. * p. 116. I do not say our Monarchs have had the same Power ever since, but the same Right by Law which ever any King had. Nor do I say they have a Right to any Secular Possessions whereof the Subject hath a Fee simple; But a Right to confer on Ecclesiastical Persons such Ecclesiastical Dignities and Revenues, as are in Law of the King's Foundation. Which all are affirmed to be by Keble, referring to the Statute of 25 Ed. 3. p. 121. Where the Holy Church of England is said to have been Founded by Ed. 1. and his Progenitors, &c. as the Lords and Advowers of it. And then by vertue of that other Maxime in my Lord Coke, (who was never more an Oracle, than when he spake for the King's Prerogative, to which he had never a Partiality,) That † Successors are included under the Name of King; 'Tis plain that what Right soever was in William the First, and his next immediate Successors, (especially H. 1. and Hen. 3. from whom the Church of Sarum had vast Additions of Indowment,) Our King hath now. Hence it is that All our Kings (as I proved in my Narrative Sect. 2.) have been owned as the Founders (not only Patrons) of our Cathedral. For which I cited the Address of the Dean and Chapter to H. 7. in whom the two contending Houses were united, wherein they called him their Founder || seven times at least. Their Numerical Expression in their Prayer to God for him, (to whom they could not intend to lye) was Fundator Ecclesiæ Sarum. And H. 8. was so stiled by the famously Learned and Prudent * Longland, after Bishop of Lincoln, and Lord Chancellor of the University of Oxford, for which I cited the Exact Register of Harward, the Authenticalness of which was never questioned. So 'tis Notorious that all of Christ-Church in Oxford, in their Prayers before their Sermons do Commemorate H. 8. (not naming Wolfey) as their Founder. From whence it is that the Dean of Christ-Church is the Sole Governour of that Cathedral, and the Bishop of Oxford none. As the Dean of Westminster, had the Sole Jurisdiction within the Precincts of that Cathedral,

* Coke 2. Inst. c. 6. upon Magna Charta p. 15.

|| C. de Sacrosanct. Ecclesiæ & de Episc. & Clericis.

* Coke 2. Inst. on Mag. Charta. c. 33. p. 58.

|| Selden. Fanus Anglorum. l. 2. c. 1. p. 48.

† 2 Inst. in statutes of Employment. p. 742.

|| Fol. 46. 47. usque ad Fol. 59.

* Regist. Harw. p. 66. 125.

when there was Created a *Bishop* of it. And the Dean there hath more than Episcopal Jurisdiction. *Archiepiscopal* (saith Dr. *Heylin*) within all the *Liberties*, as the *Abbots* had heretofore. Ever since *Sebert* King of *Essex*, Kings and Queens have been Successively, and in the Eye of the Law, The *Founders* of the Church, and of all within it. As it is now a Collegiate Church, Queen *Elizabeth* was the Foundress, and our King at this day (whom God preserve) is in Law the *Founder* of it. As for all the same Reasons, He is the *Founder* of our *Colledge* and Church of *Sarum*, as well by several *Acts of Parliament*, as in our *Books*. Our *Norman* Kings did say of it, as *W. I.* of *Battle Abby*, * *Libera sit sicut mea Basilica Capella*; and as that was exempted from the Power and Visitation of the Bishops of *Chichester*, so was ours from the Bishops of *Sarum*, as shall be shewn in its proper Place. I end this Section with that Old Distich in *Spondanus* of our *Salisbury Cathedral*, and with a Verse made in those very times.

* *Eadmerus.*

* *Spond. Annal*
ad A D. 1237.

† *Cambden in*
Wilt.

{ * *Rex largitur opes; fert Præsul opem; Lapidæ*
Dant operam; tribus his est opus ut stet opus.
† *Regis enim Virtus Templo Spectabitur isto.*

* *View of the*
Civil Law.
Part 2. c. 1.

7 *Sect. p. 104.*

† 24 H. 8. c.
12. and 1 Eliz.
c. 1. 2, 3.

Sect. 3. Thirdly, Altho I do not say, with that incomparable Civilian *Sir Thomas Ridly*, * *That the King himself is instead of the whole Law, yea he is the Law it self, and the only Interpreter thereof, in as much as all those who govern under him, govern by him, and for him*; Yet I will and do say with our *Acts of Parliament*, † *That the Kingdom of England is an Empire; and the King Supreme Head of it; and his Crown an Imperial Crown*. He is not a Precarious, but an *Absolute Monarch*, saith Learned *Cambden* in his *Britannia*. *Supremam Potestatem, & merum Imperium habet apud nos Rex*. And his Sovereign Dominion over all *Ecclesiastical Persons*, and in all Causes without exception, is confessed to be *de Jure*, by *All our Clergy Men* in their Pulpits, as well as by *All in England* who pay him *First-fruits* and *Tenths*. Not excepting those very Persons who cannot yet Pardon my most necessary Distinction, (on which doth lye the whole stress of Ours and all Other Cathedrals) between an *Original* and *Derivative* Right; a Right *Supreme* and one *Subordinate* thereunto. Our Monarchs of *England* Acting as *Founders*, have *eo ipso* ever Acted as *Proprietaries in Chief* of the Church of *Sarum*; and so it is with the strictest Propriety of speaking, that in all their Royal Mandates they use that Stile, *Our Church of Sarum*. For as *Proprietaries in Chief*, & *bonæ fidei Possessores*, and *Founders* of the Bishoprick, as well as of *All belonging to it*, I find and can prove (against the naked and cheap Denials of such as can easily deny what they cannot Disprove by any Artifices or Strengths) that our Monarchs have Acted as *Despotically* in and over the Church of *Sarum*, as in any their Mansion Houses. Who but our Monarchs did take away the 14 *Prebends* I reckon'd up in my Collections, and the *Archdeaconry* of *Dorset*, and all the *Dorsetshire Jurisdiction* from the Bishops of *Sarum*, (not so much as One Parish remaining there unto the Bishop tho about forty to the Dean,) and conferred them upon others according to their Wills and Pleasures? To begin with the first Times, were to write a Volume. Let it suffice that *H. 8.* gave Four of them at once to the *Dean and Chapter of Windsor*, as that of *Okeborn St. Andrew*, that of *Okeborn St. George*, that of *Hungerford*, and that of *Sherbourn*; but did not take from the *Dean of Sarum* the *Episcopal Jurisdiction* in any one of

of them: Nor in that which was given by *H. 8.* or *Ed. 6.* to the Earls of *Pembroke*, to wit, the Great Prebend of *Ramsbury*, where the *Dean* at this day has more than Episcopal Jurisdiction; the like to which he has also in the Prebend of *Axford*, supposed to have been given by *Q. Elizabeth*, to her Secretary of State, *Sir Francis Walsingham*, from whom I know it came by Purchase to *Sir Francis Pyle's* Grandfather; the like to which he has also in the Prebend of *Sherbourn* in *Dorset*, which hath been variously disposed of to and fro by our several Monarchs, for about Five Hundred Years together, from *King Stephen* to *King James*. And tho *Sherbourn* was the Seat of so vast a Bishoprick, that no fewer than Four Bishopricks were taken out of it, yet the whole Jurisdiction of That, and many round about it, have still been saved intirely by *All our Monarchs* since the Conquest, to Him who was *then*, and ever since the *Dean* of their Majesties free Chappel and Church of *Sarum*. Then *Formaliter*, and ever since *Virtualiter*, in Respect of the *Franchises* belonging to him. Indeed in the Prebend of *Bedwin*, given away by *Ed. 6.* to the *Earl of Hartford* and his Heirs, the *Dean* of *Sarum* has but *Episcopal Jurisdiction*, and a Triennial Visitation; the like to which he has in the Prebend of *Faringdon*, which is now in *Sir Robert Pye*, to whom it descended from his Father, by whom it was bought of the *Lady Umpton*, and given for ever from the Bishop and Church of *Sarum*, by *H. 8.* or *Ed. 6.* The Three good Prebends of *Uphaven*, *Loders*, and *Horton*, were Alienated from us, I know not *when*, or by which of our *English* Monarchs. The Prebend of *Ship-ton* (which was no more in our Monarchs to dispose of, than All the rest) was given away by *King James* (as to the Patronage and Advowson) unto the Chancellor and Scholars of the University of *Oxford*, for the use of a *Lay-man*, the King's Professor of Law there, and to his Successors for ever, with an *Etiam si Laicus sit, & sacros Ordines non suscepit*; and this the King gave under the Great Seal of *England*, wherein the *Habendum* and the *Tenendum*, is not of the Bishop of *Sarum* (of whom there is not the least Notice taken) but of *Him* the said King, and his Successors for ever: Which Gift and way of giving it, was afterwards confirmed by Act of Parliament, which I wonder to find alledged by the Bishop's Answer to my Narrative, in Derogation to the King's Right of giving Prebends; as if a King's Act were the less *Regal*, or *Legal*, for being done by the King twice. First without a Parliament, and a Second time in it. Or as if the King of *England* had not Acted as the *Proprietor*, because the Three Estates of Parliament did so esteem Him. Nor hath any Reason been given (that I have ever read, or heard of) why *King James* might not as easily have given away any other Prebend, which had been founded in that Church, that of *Netherbury in Terrâ* for Example, which he really had given to his Divinity-Professor, and to his Successors, but that His Majesty found it too little, and rather chose to give them a Greater Thing. Nor is the King's Act in Parliament (which we may no more distinguish from the King, than we may distinguish the King's Prerogative from the Law) more or less the King's Act, than his Act in Council (although perhaps of more force:) For the Three States which make the Body of a Parliament, whereof the King is the Head (tho a most honourable Body, and a whole Kingdom in Epitome) can but prepare Matter for Law, and humbly propose it to the Sovereign, to be ratified or rejected, as His Majesty thinks fit. But the *Ratio For-*

malis of Legislation is fully and solely in the King; whose *Fiat* or *le vent* is the very Soul and Life of every Law made, or to be made. And really if the King of England is not the Founder, the Sovereign Patron, and Proprietary in Chief, as well of the Prebends, as of the Bishopricks; the Bishop of Sarum can have no Right to his Prebend of Potern (tho Installed and Admitted by the Dean and Chapter, as other Prebendaries are;) much less can he have Right unto his other Prebend of Blewbery, into which he was never so Installed or Admitted; and which is reckoned in the Choir among the *Alienated Prebends*, because transferred from the whole Chapter to the Bishop of Sarum, who is indeed one of the Chapter, as he is Prebendary of Potern, but not at all as Prebendary of Blewbery: And so his Lordship cannot have a Right to it, (tho he has Possession of it,) unless he hath it from the King, which is Right enough; and yet it is not enough, in case the King is not *de jure* the Sovereign Patron, and Proprietary in Chief. 'Twas never once held by any Bishop of Sarum, (but was a distinct and good Provision for one of the *Simplices Canonici*) until the Reign of H. 8. by whom 'tis pretended to have been press'd upon Bishop Salcot, alias Capon, and that in Exchange for the Mannor of Godalmain in Surrey; which could not possibly be *de jure* (if indeed 'twas so *de facto*) in case the King had no Right to dispose of that Prebend as he thought fit: I say if it was indeed so *de facto*, because the Mannor of Godalmain in Surrey (with the Rectory and the three Copices, and the perpetual Advowson of the Vicary) was the Gift of King * H. III. and is the Dean of Sarum's Corps, and held of him by Lease to this very day. Nor could such an Exchange be made (if it ever were) without the King's *Fiat*, as Proprietary in chief: And I hope 'twill not be said, that the King has only Right to Alienate what he will to the Bishop from any other, but no right to give what Prebend he will to any other. It is against Law and Reason, that one Man in the same Church should have two Prebends at once. And therefore when H. II. of England gave two to one Person, † Pope Alexander the Third complained of it: Not at all questioning his Royal Right to give Prebends, but the Evil Use of it. Hence it follows, that the Right of any Bishop of Sarum to bestow Prebends (which I asserted in my Narrative upon the onely sure Foot it can stand upon) must needs be Subordinate to the King's, from whose Supreme Right it was derived. For the King (if he would) || cannot legally confer a Sovereign Right upon any Subject, much less upon a Bishop, Dean and Chapter, who cannot hold what they have for Term of Life Absolute, being many wayes subject to Deprivations. Amongst many other Examples which may be easily given of that; Judge * Coke tells us of one Bishop of Exeter, who fell into a Premunire, for not admitting one immediately, who was presented by the King to the Church of Southwell: And this was done in the prevailing Times of Popery (24 Ed. 3.) much more easily may it be done by a Protestant King (and hath been often) who hath of Right an Ecclesiastical Supremacy, and doth assert it without a Sacrilege, or an Incroachment upon the Church, and that by the Confession of all Loyal Church-Men. I am sure I can name Many, who once allowed much more to Cromwell: And yet by † two Statutes in force, 'tis downright Treason, for any Subject of England, either to Promise or Pay Obedience, to any other than to the King, his Heirs, and Successors. 'Twould be as endless, as it is easy, to Muster up Instances of the Regale, over Churches and Church-men, and their Revenues,

* Lib. Stat.
f. 38.

† Conc. Imp.
& Sac. l. 8.
c. 22. art. 7.

|| Coke 1. Inst.
l. 1. §. 1. and
part 2. in Stat.
de Westm. c. 1.
p. 501. præfer-
tim. part 4.
c. 7. p. 287.
* Part 4. c. 76.
p. 356.

† 23 Eliz. c. 1.
3 Jac. c. 4.

venues, even when they were as Great, as the Pope could make them; and at as high a pitch of Pride, as that *Usurper of Supremacy* could raise them to. The most Assuming *Bishop of Rome* that ever was, was *Pope Hildebrand*; against whose Tyrannies and Incroachments, will the Conqueror was a *Protestant*; yet he apparently so dreaded the growing Power of the then Bishops within this Kingdom, that he *Confirm'd* his own Power (as well as *shew'd* it) by lessening theirs. Our Kings (in a word) are *de jure Kings of France*: And the French King's Prerogative, or Propriety, cannot be greater in the *Gallican Church*, than our King's is in the *Church of England*. "Nor indeed neer so Great. ('Tis a little thing to say in the Church of *Sarum* only.) And yet the whole *Clergy* of the *Gallican Church*, have lately declared their Opinion by the Mouth of the *Arch-Bishop of Rheims* (notwithstanding their Popes Pretensions) That the King hath a clear Title to the Right of the Regale, in all the Bishopricks of his Kingdom; That a General Council cannot lessen it, much less a Pope; That no Present King can be deprived, of what a former King had; That the King's Collating to *Prebends* is such an Act of Supremacy (so the Historian does infer) as shews the King to be Lord in Fee; and by the Code made in the Time of H. 4. || If a Chapter refuse to Instal a Regalist, Letters are to go out to compel them to it, or else their Revenues are to be Seized on. Briefly 'twas confessed by the Bishop of Pamiers (the stoutest Assertor of the Pope's Ecclesiastical Supremacy) that The Foundation of Churches does prove the King's Right of Patronage. All which and much more may be Collected out of Dr. Burnet's Elaborate History of the Rights of Princes, &c. And if the French King's Prerogative is such, who does not own an Ecclesiastical Supremacy, in all Causes, and over all Persons, as our King does; How much greater is the Regale of our Kings here in England, ever since the Reformation? I will conclude this Comparison of the King of France with the French King, in the words of this King's Procurator General in Parliament, to wit, That the King can no more renounce the Right of the Regale in Ecclesiasticis, either in whole, or in part, than he can destroy the Salick Law, or quit the Sovereignty of any Provinces in France: And further Adds, They would all quit their Employments, rather than consent to the least Diminution of that Right. There are some among Us, who do not speak in that Strain, though others do.

|| Code Hen. 4.
l. 7. Tit. 1.
Art. 47.

Sect. 4. Fourthly, I observed a Maxime of Law in my Lord Coke, which did Confirm me in my Distinction between a *Supream* and *Subordinate* Right. The Maxime is, * that If the Title of the King, and of a common Person concur, the King's Title shall be Preferr'd. For the Law (saith he) respecteth Honour and Order: Therefore if the King makes one Man a Resident, whilst the Dean and Chapter is choosing, and have a desire to Choose another; the Dean and Chapter will prefer the King's Clerk, and not dispute with His Majesty *de jure Patronatus*. Several Instances may be given in several Churches. Those of *Sarum*, and *Wells* in especial manner. So if the King presents One to a *Prebend* without Residence, and the Bishop Another; the Dean and Chapter will Install and Admit the King's Man, because by expresse Statute-Law, † The King is the Advower Paramount immediate of all Churches and Prebends. And accordingly our King's the Last, and Present in particular, do not only Recommend, but *pro Imperio plane Despotico*, do expressly Command

* 1 Instit. l. 1.
c. 5. Sect. 35.
fol. 30—b.

† 25 Ed. 3.
Stat. 6.

Obedience *to*, and Compliance *with* them; and that sometimes in the very same Line, sometimes two or three Lines lower, sometimes again in the Conclusion. Yes, and in *variety* of Despotical Expressions (as great as any can be invented) every way suitable to the Crown of these Realms, declared in Law to be *Imperial*. Such as are (for instance) || *We will. We command. We will and require. Willing and requiring you. Our pleasure is. Our express will and pleasure is. This We will have done, Any Use, Custome, Prescription, or any other Matter, or Thing to the contrary in any wise notwithstanding. Again, We Will, and Our Pleasure is, that You cause these our Letters to be entred in your Registre, to the end they may be produced when Occasion requires.* What French King did ever Write in a more Decretory, Despotical, and Masterful Stile, than *Le Roy le veut. Car tel est son Plaisir?* This was as far as Heaven from Hell, from *Expressly Disclaiming a Royal Patronage, and Right, and Jurisdiction.* I will add but one more, which was both wayes Despotical; to wit, by a signal *Inhibition*, and by a *Peremptory Command*. For having said, that *He had given* unto his Chaplain Dr. Drake the Dignity and Office of *Chancellor* in that his Cathedral Church of *Sarum*, with the Prebend thereto annexed; His Majesty added these signal words; [*We hereby Will and Require, that no Other Person be Admitted or Elected, into any Residentiaries Place now vacant, or that shall be vacant, until He (the said Dr. Drake) be received into the Rights and Profits of Residence: And for so doing, This shall be your Warrant.*] Much more might be said of the King's *Mandate* for Dr. *Whitby*, which yet I forbear, till occasion serves. Onely of this I am assured by as Eminent

* a Lawyer, as perhaps ever was, That a false Suggestion in a Petition to the King, does void the King's Grant of the thing Petition'd for: It being a *Maxime* in *My Lord Coke*†; [*The Grant is void, where the King is deceived in his Grant.*] Besides all this, I sadly consider'd with my self, how often Bishops Temporalities have been *Resumed* by our Kings upon light Displeasures. How often *w. 2.* did || Resume his own Grants. And how he at once took all the Profits of the Bishopricks of *Canterbury, Winchester, and Sarum.* And how all Bishops were threaten'd * by *H. 3. with a Seizure of all they had*, if they presumed to *intermeddle* in any thing to the Prejudice of the Crown. *Lastly*, How † all our Kings and Parliaments (excepting one) even from *H. 3.* until the 6. of *H. 8.* have used *Acts of Resumption, whereby to Repair the low Estate of the Crown.* The just and frequent way to do it (said the learned Sir *Robert Cotton*, in his Speech to the House of Commons, 1 *Car. 1.*) The Dean of *Sarum*, as much as any Man, is for the Bishop of *Sarum's* Rights (though not exclusively of the Kings) and would have it stand *safely*, by standing for ever upon a *Rock*, to wit, *The Prerogative of our Monarchs*, who, in Law, *can never dye.* They tend to the *Ruin* of the *Prelacy*, and all Cathedrals, who labour to make their *King Despotical*, in the Sence of the Greek Proverb only, *ὡς δαλς ἐν τῇ οἰκίᾳ ὁ ἀσποδότης.* Be a Family never so Great, there is but one Servant in it, and that is the Master of the House. But the Learned Dr. *Burnet* affirms the King to be *Despotical* in a much better Sence. For premising an Observation, how frequently Christian Monarchs made Penal Laws for Church-men, the Pains of which were *Suspension*, or *Deprivation* (whereof the Instances are many, both in the old *Roman Lawes*, and in the *Capitulars*) He infers the King's

|| *Master-*

|| Of many more Instances, These at present may suffice. In the Letters of Ch. I. May 18. in the 9th year of his Reign. And Feb. 8. the same year of Ch. II. Jul. 24. 1674. and Jan. 11. 1665. and Sept. 10. 1666. and Mar. 8. 1676. & Jun. 8. 1680 Besides many more Registered, & many which are not, but ought to be and to have been.

* Coke 1. Inst. l. 1. Sect. 31. fol. 27---a.

† Stat. 14. Ed. 3. c. 4.

|| Daniel in the Life of Rufus. P. 44.

* Lord Coke out of the Parliament Rolls. 18. H. 3. † V. Cottoni Posthuma, p. 280. 281.

|| *Mastership*, and gives a very sound Reason for it. Indeed the *Bishops of Rome* for several Centuries of Years, even in all their Publick Bulls, and till the Death of *Charles the Great*, did own the *Emperors* of their Times, as their * *Lords and Masters*. And *Richard Poor*, Bishop of *Sarum*, did own King *John* as his † *Master*, with greater Reason; however that *King de facto* made himself the *Pope's Vassal*. *Postulans ab Eotantum a Domino suo manus adiutrices*. All agree the Monarchs of *England* have Power to suspend, or deprive a Bishop (as Ours has done an *Arch-Bishop*, and that for a lesser degree of Guilt, than that of opposing the King's Prerogative) as *Q. Mary and Elizabeth* did; and of our Kings, not a few. So 'tis on all hands confessed, That their *Royal Visitations*, either of All the Churches of *England* (as *H. 8. and Ed. 6.*) or of the Church of *Sarum* in Special (as *H. 8. Ed. 6. and Q. Eliz.* by their Commissioners) may Abolish Old Statutes, and Order New ones to be made; and this for One (if they please) That No *Prebend* shall be conferred without the King's expresse Mandate, or Permission and Consent, in a *Conge d'eslire*. This would be at once *Despotic*, and yet according to Law; however some in the World are willing to make them *Inconsistent*: And every Statute would begin with a *Statuimus, Ordinamus, or Volumus & Mandamus*: Which being supposed, I would ask, *what hurt* there would be in it? Or, *What Ill Consequence* could there be of it? Is the King fit to be intrusted with All the greatest Promotions, All the Bishopricks and Deaneries? And is he not fit to bestow the Least? Is it convenient, and of good Use, and according to Law, that He should make a Bishop of *Sarum*, as well as the Dean, and All the *Residents* (as at this Day, and in *Antecessum* for Dayes and Years yet to come?) And is it *illegal*, or of *Ill Consequence*, that he should sometimes (tho seldom) bestow some Few of his own *Prebends*, even on Men of great Learning, and Holy Life, and in full holy Orders, and that for Term of Life only? when his Progenitors gave so many even to meerly *Lay-Men*, and their *Heirs for ever*? The World takes Notice, and 'tis to be Written with a Sun-beam, that generally speaking, and taking one with another, no Preferments are so well given as by the King, and by the Lord-Keeper of the Great Seal, and by the Advice of the Lords Commissioners, whom His Majesty hath appointed for Ecclesiastical Promotions. 'Tis certain the *Bishops*, and the *Deans*, and others, whose Preferments are in the King's sole Disposal (not only in his *Supream*, from which certain *Bishops* have a *Subordinate Right derived*) are all exactly of this Opinion: This (I say) is as certain, as it is certain they have a competent good Opinion of themselves, and their own Deservings: They would not else have accepted, much less would many of them have sought, what many others had deserved as well as they. And if 'tis true that || Neither the Bishop nor the Church of *Sarum*, did suffer any prejudice at all, by King *James* his giving a *Prebend* unto a meerly *Lay-man*, and to his Successors for ever; (at which saying of a Great Church-man, many good *Secular Men* have wonder'd) How much less can his Lordship think it any Prejudice at all to the Bishop of *Sarum*, or to the Church, or to the whole Order of Church-Men, if another Monarch of *England* shall confer another *Prebend* (I do not say upon a *Lay-man*, and his Successors for ever, but) upon One in Holy Orders, and (without a *Nepotismo*) of Holy Life, and of excellent Learning, and for term of Life only, or so long as he is seen, and Notoriously

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known,

|| Hist. Of the Rights of Princes, in disposing of Church Lands and Eccl. Promotions. p. 322.
* Guicciard.
Hist. l. 4.
† Regist. ex Annal. Pontif. fol. 3.

|| This in Scriptis was the Assertion of the Present Bish. of Sarum in his Answer to the Dean's Narrative.

* Hist. Reform.
Part 2. l. 1. p. 6,
7, 8, & 9.

known, to continue to *deserve* the Injoyment of it? 'Tis very well known what was the Judgment of *H. 8.* upon his Death-bed, and of *all his Executors* after his Death (whereof three were Eminent Church-men, to wit, *Arch-Bishop Crammer*, *Tenital Bishop of Durham*, and *Dr. Wotton*, the famous Embassador, who was at once Dean of *Canterbury* and *York*, and humbly refused the *Arch-Bishoprick* of the great Province) and also of *All the Privy Counsellors* of *Ed. 6.* when they decreed to the * *Earl of Hartford*, *Six of the best Prebends at once*; and *Three Hundred pounds per annum* out of the Lands of the next Bishoprick, which should fall to the King's Disposal. After which 'twas granted also (at the said Earl's Suit) that his Lordship should have a *Deanery*, and a *Treasurership*, in lieu of *Two* of the said six Prebends: But very far was the *Dean of Sarum* from defending the Alienations of Ecclesiastical Indowments to Secular Men (as the Lord Bishop of *Sarum* does;) He was not so little vers'd in Logick, as to argue a *Facto ad Jus*. For when he related matters of Fact, and what our Monarchs had done in the Church of *Sarum*, he added, [*Quo jure*, I humbly leave to the Judgment of my *Superiors*.] He only demonstrated, that our Monarchs had acted as *Founders*, and *Proprietors* (which indisputably our Monarchs All are) and have a strict *Right* (as well as *Power*) to bestow all our *Prebends* as well as *Bishopricks* upon God's proper *Usufructuaries*, deserving Church-men for *term* of Life. But whosoever shall consider, what Powers were given to the *Lord Cromwel* by Commission, as *Vicar General* to *H. 8.* and also shall consider those famous Parliaments, compos'd of the clearest and deepest Heads of those Times, both Spiritual and Temporal, who made the known Statutes of 27 *H. 8. c. 4.* and 13. and 27. 28. and 1 *Ed. 6. c. 14.* will at least excuse and pardon any Man living who now believes (and with a much *Greater force of Reason*) that our King hath a *Supream and Sovereign Right* (from which and under which some of our *Bishops*, as well as *Deans*, have one *Subordinate and Derived*) to dispose of Vacant Prebends now and then, when they please, in their own Cathedrals. And as well may he dispose of *All* our *Residentiaries* Places (as his Now-Sacred-Majesty, and his Royal Progenitors have done) yes, and return them, if he thinks fit, from six to seven, from seven to twelve, and from twelve to fifty-two; and bind them to Residences in their Courses, thirteen every *Quarter*, according to our several Statutes, both Old and Modern.

Sect. 5. Besides all this, I find it said to the Lords Commissioners, First by my Brethren of the Chapter, [*That His Majesties Power within the Church of Sarum appears to us to be the same, and no other than it is in All other Cathedral Churches in England.*] Next by the King's Attorney General, [*I cannot find that His Majesty hath any other Right in That Church, than in any other Cathedral Churches.*] These Assertions, but especially the First, because of its important Monosyllable *All*, do seem at least to me to imply a Grant, That His Majesty hath the same both Power and Right in the Cathedral Church of *Sarum*, which he hath, and ever had, in the Churches of *Worcester*, *Norwich*, *Rochester*, *Bristol*, *Glocester*, *Oxford*, *Peterborough*, *Westminster*, *Windsor*, &c. In All which Churches, as well Cathedral as Collegiate, Every one of the Prebends is in the King's Sole (not only Sovereign) Disposal, (by Himself, or Lord-Keeper,) & not one in any Bishop, or Bishops whatsoever.

ever. Yea, even in the Arch-Bishop's Metropolitane Church of *Canterbury*, the King has the Sole Disposal of *Nine* of the *Twelve* Prebends, & the Arch-Bishop of but *Three*. Tho the Primate of all *England* and *Metropolitan*, should have as much Power and Right, (a man would think,) within the Cathedral of his own Diocese, as any one *Inferiour* Bishop, both *within* his Grace's *Province*, and under his Grace's *Jurisdiction*, and lyable to his Grace's *Corrections* also; such as the Bishop of *Sarum* is. And I do sometimes ask my self, what Inconvenience could there be, if the Bishop of *Sarum*, or any other who is Subordinate to the *Archbishop*, (as the Archbishop to the King,) had no more Prebends to dispose of than the Archbishop hath? Or if His Majesty *now and then* (although but rarely, only 14. or 15. in above 500. years,) should give a Prebend at large of *Sarum*, to a Priest every way qualified with Want and Worth, as well as he gives *All* the *Prebends* in *All* the Churches recited, without Exception? The Church and State might stand firmly as now they do, and Christian Souls might be as saveable as now they are, tho the King's Power and Right were as much own'd by *All*, as it is by me. The Bishops of *London* and of *Lincoln*, and several others, have a most undoubted Right to dispose of Prebends, (such at least as the Bishop of *Sarum* hath,) and that Right the more unquestionable, by being *held* of the *Supream*, and *derived* from it, and *Subordinate* thereunto. A *Sole and Sovereign* Right wholly *exclusive* of the King's, (which is all I contend against, and which my Lord Bishop of *Sarum*, seems to aim at, and effect, or else his Lordship and I agree,) I am verily perswaded, *none* of those Bishops will pretend to. It cannot be said with any Truth, that *All* the Bishopricks I have named, wherein the King gives *All* the Prebends, the Bishops none, are not of *Old*, but *New* Foundation. For *Worcester*, and *Norwich* are very *Old*; *Canterbury* and *Rocheſter* two of the *Oldest* we have in *England*. Besides that the King's Power and Right in the Church of *Sarum*, is greater than in many others; not only because of his *Old Free Chappel*, which I shall prove in the next Chapter (and cannot be disproved by some *Negatives*, from some Interested and Passionate Opposers of the Prerogative,) but also because the Kings of *England* were the *Co-founders* of that Cathedral in a Litteral Sence, as well as *Founders* in the Sence of our Common and Statute Law: The *Co-founders* at least; because *Oſmund* had his *All* from the Bounty of *W. 1.* and held his *All* of that King's Favour, under Knights Service during Pleasure, for which I cited Mr. *Selden* and *Matth. Paris*, in the first *Sect.* of this Chapter. King *H. 1.* in one day gave 20 Churches to that of *Sarum*, besides the *Tithes* of *New Forrest*; if the * Record which was read by Sir *Tho. Ridley* said true, which he mentions in his View of the Civil Law. And (passing by the lesser Bountyes of *K. Steph.* and *H. 2.*) it is confessed, that *H. 3.* gave no fewer than 20. or 21. *Prebends*, and other things; even *All* the *Tithes* of all the King's *Forrests* within *Three* Counties, *Wilts*, *Berks*, & *Dorset* and the Removal of the Cathedral from *Old* to *New Sarum*, is own'd by Bishop *Spondanus* (as well as † others) to have been at the King's cost Chiefly. Next our Kings were *Sole Founders* in the Eye and Sence of the Law, according to the *Maxime* cited before from *Judge Coke*, *Instit. Part 2. Chap. 33.* upon *Magna Charta*, p. 68. & 44. *Ed. 3. c. 24.* And our King at this day, according to that other *Maxime* in *Coke 2. Inst. in Statute of Employments*, p. 742. Whatever Right our *Former* Kings had, our King hath now.

It seemeth strange to most men, (who have considered the matter thoroughly,) that the King who gets the Right of giving every Eccle-

Part. 3.
* 4. Sect. 4.
p. 190.

† Bishop Godwin in his account of Rich. Poor. p. 276. & Spondanus ubi Supra.

fiastical Possession in *England*, not only where *Churchmen*, but where *Secular* men are Patrons, by promoting an Incumbent unto a *Bishoprick*, should immediately loose *All* even in That very Church where he makes the Bishop: Or that the King who hath *All* in his own Disposall, during the Vacancy of *All* the Bishopricks in *England*, should have nothing to dispose of, (without the Bishop's good leave,) as soon as the Vacancies are filled, tho filled up freely by himself. They are *Betrayers of the Churches Rights* who go about to *Undermine* and *Betray the King's*; And they tempt the King and his Royall Successors, to let their Bishopricks lye void, as *Q. Eliz.* and her *Ancestors* thought fit to do, even as far as for 20. or 30. yea, for 40. years together. Signal Instances of which in the most of our Churches, if not in *All*, 'twere too easy for me to give, if it would not occasion too great a Length. Alas! we may judge of the King's Regale within the Cathedral Church of *Sarum*, (supposing there had been never a Royal Chappel in the Old Castle, which yet I shall shortly make apparent,) by the *Exercises* of it in other Churches. They having (in their *Pleasures* and *Displeasures*) Created some Bishopricks, and Supprest them soon after; (whereof *Westminster* is an Example:) Dissolved, and Restored; (whereof *Durham* is an Example:) United two into One, and again Divided into Two; (an Instance of which we have in *Worcester* and *Glocester*;) Taken three out of one, (as *H. 1.* took *Ely* out of *Lincoln*. *H. 8.* *Oxford* and *Peterborough* out of the same;) Tho the Diocess of *Lincoln* is still the greatest, (its Parishes being no fewer than 1255.) Ordered one Bishoprick to be held with Another in *Commendam*; (as that of *Bristol* with that of *Glocester* for 23. years together;) Gave the Bishoprick of *Hexam* in Augmentation to the Archbishoprick of *Tork*; (from which it was taken again in the 37. of *H. 8.*) Converted Canons secular into Regular, & vice versa, made the Prior and Convent of *Westminster* a distinct Corporation from the Abbot: Conferr'd the Patronage of a Bishoprick upon a Subject; (as *H. 4.* that of *Man* upon the Family of the *Stanleys*;) Gave Temporalities, and Reassumed them; (as in 14 *Ed. 3.* c. 3.) Deprived Bishops for very small Failings; (Examples of which are elsewhere given.) Subjected them to the Statute of *Præmunire*, and to the Judgments of Secular Men; (As *All* at once to the Lord *Cromwel*, and Sir *Jo. Tregonwel* to that of *Sarum*.) Made Inferiour Clergymen to be Judges of their Superiours; (as the Dean of *St. Pauls*, of *Bonner* Bishop of *London*;) Translated Bishops in Displeasure from the Greater Bishoprick to the lesser; (As *Nevil* from *Tork* to *St. Andrews* in *Scotland*; and *John Buckingham* from *Lincoln* to *Litchfield*, which was not then half so good;) Made a Secular Man a Dean; (as the Lord *Cromwell* Dean of *Wells*;) In a word the same Authority which took four Bishopricks out of *Sherburn*, and added *Sherburn* (with about 40 Parishes about it) to the Dean of *Sarum's* Jurisdiction; And gave away the Jurisdiction of the Rest of all *Dorset* from the Bishop of *Sarum* to that of *Bristol*, (but never gave away one from the Dean of *Sarum*;) can give a Prebend of *Sarum*, or a Residentiaries Place, to any man in full Orders, and that *de Jure*; for to a Lay man, and *de facto*, it hath frequently been done. And if the Corporation of *Dean and Chapter* is not of the King's Foundation, when the Bishoprick is by all Confessions, and by the frequent Declarations of the Law; why have our Kings disposed oftner of the Residentiaries places, than of the Canonries at large without Residence? Why should any man dispute against his Kings being his Founder? Can he pretend to have a better? Or will he pretend to have none at all? 'Tis true that *Osmund* was a Secondary and

and Subordinate Founder of many Prebends. But His *Founder* and Royal *Master*, was worthily reckon'd as the *Supreme*, with which Distinction it is as true, the *Dean and Chapter* have a Right to choofe their *Bishops* as well as *Residents*. But both in a Subserviency and Subordination to the *Supreme*, wherewith their own must stand, or fall. The Reverend Arch-Deacon * *Fulwood* hath enough, whereby to clear the King's Patronage of the whole English Church; and he cites Archbishop *Bramhall*, producing several Laws for it. The *Affize of Clarendon*; the *Statute of Carlile*; the *Statute of Provisors*. All asserting the Power and Patronage to be *de jure* in the King, which was *de facto* in the Pope, and by *Usurpation* † The Parliament told the King plainly, That the Right of the Crown is such, and the Law of the Land too, that the King is bound to make Remedies and Laws against Incroachments on his Prerogative.

* The Establishment of Church. c. 12. p. 144. &c.

† 25 Ed. 3. Stat. 6.

SECT. 6. Lastly, I reckon that in my Narrative (in imitation of the most Learned and most Judicious Bishop *Sanderſon*;) I did assert the *Bishops* Right, as well as the *Chapter's*, and *mine Own*, (both as jointly with them, and as Separate from them) upon what I thought the *surest and safest Ground*. Only I could not find in my heart to take down that Scaffold, or to invalidate those stairs, unto which we all owe our own Advancement. I was really afraid to betray the Church, by asserting the *Churchmen's* Right with an Exclusion of the *Kings*, as I am sorry some do, to the endangering of the whole Body. For 'tis to Expose her as an Orphan to a very unkind world, sadly stripped of the Patronage, and so the Protection of the King, who is her Guardian, and Nursing Father, to whom the Church owes her Safety, (if not her Being;) and without whose Royal Patronage she cannot comfortably subsist: The Church (in our Laws) being evermore a * *Minor*, ever a *Pupil under Age*; as utterly destitute of help, as ever any *Exposititious* and *Forſaken* child was, without that Guardianship and Patronage, that Royal Right and Prerogative, which some (who live by it) have lately attempted to Undermine. In this my Sentiment if I have erred, I have erred with the Great Man I just now mentioned as my Exemplar, in that Book which he compos'd by the special Command of King *Charles the First* of Glorious Memory, proving *Episcopacy* in England not at all Prejudicial to Regal Power, (which some would make Destructive of it,) by the same way of arguing which I have used. * The shortest Account which I can render of it is this: All Episcopal Power is either of Order, or Jurisdiction; whereof the latter is either *Internal*, or *External*; and this last is either *Directive*, or *Coercive*; the first is from God, the Second wholly from the King (as is declared by our Laws, and acknowledged by the whole Loyal Clergy.) Yea that Power which is from God, (as that of Preaching, Ordaining, Absolving, and the like,) is so subject to be Inhibited, Limited, and otherwise Regulated, in the outward Exercise of that Power, by the Laws and Customes of the Land, as that the whole Execution of that Power does still depend upon the Regal. Now † All Jurisdiction being Confessedly from the King, it seem's to follow, that all Prebends, as well as *Residentiaries* places of old Foundation, which have a Jurisdiction belonging to them, (as those of *Sarum* are known to have,) are disposab'le by the King, when, and as often, as His Majesty sees Good. Pope *Nicolas* could not deny it, and therefore Granted it very cunningly to *Edward the Confessor*, with a *Vobis & Posteris committimus Advocationem* &c. We commit the Advowson of all the Churches of † England, to you and your Successors, Kings of England. So that if the Popes

* *Coke* Inst. Part. 2. upon *Magna Charta* c. 1. p. 3. where *Fleta*, *Bracton*, *Glanvil* and others are cited by him.

* See Bishop *Sanderſon's* said book. Especially p. 30. 31. to p. 34. 35. &c.

† *Id* *ibid.* p. 45 where Bishop *Sanderſon* cites the Statute of 1 Ed. 6. and makes an wholesome use of it, p. 45. which compare with 1 Eliz. c. 1.

† *Baronius* A. D. 1059. n. 23.

Grants are of any value, (before the Statutes of *Provisors* and *Præmunire*,) by which the *Composition*, in it self Evil, was made much worse, as having been when those Statutes had made it *Criminal*, for the Subjects of *England* to petition a *Bishop of Rome* for a Confirmation; the Regal Right I plead for has a double Title, and is not questionable by the *Papalins*, much less by the men of the *Church of England*.

Now whereas I did distinguish (with the Judicious *Bishop Sanderfon*) between an *Original*, and *Derivative* Power of Jurisdiction, (wherewith I have been twitted, in derogation to the Kings Honour, to whom it seems I ascribed more, than Malignity will allow, tho no more than *Bishop Sanderfon*, whose Loyal performance justifies mine,) And after shewed the Great Extent, with the greater *Intensiveness*, of my *Derivative* Jurisdiction as Dean of *Sarum*, which had been a most *Extravagant* and *Unaccountable Jurisdiction*, if the first Deans of *Sarum* had not been Deans of the Kings Free Chappel, (before the Cathedral Church was built, and before *Bishop Herman* was the first Bishop of it, as well as during all his time, which I shall prove to be as clear as the Sun at Noon in a fair day,) I will justify my self in my so magnifying my Office, out of meer Gratitude to the King, and to show his Royal Bounty as well as Power, in the words of the said meek and most Learned Prelate. *The more a Derived Power is extended and enlarged in the Exercise thereof, (so as to be Regular) the more it serveth to set forth the Honour and Greatness of that Original Power which granted it. Since the vertue of the Efficient Cause is best known by the Greatness of it's Effect. For—Propter quod unumquodque est Tale, Illud ipsum est magis Tale; as the warmth of the Room doth not lessen the Heat of the fire upon the Hearth, but is a sign of its Greatness, &c.* From all which it follows, that the Dean who does as modestly, as he does thankfully distinguish, between his own but *derivative* and Subordinate Rights, and the Rights of the King which are *Original* and *Supreme*, cannot magnify his Office, or defend his Jurisdiction (according to his Oath and bounden Duty) with too much Zeal; whilst they who hate that Distinction, (as by me it hath been used,) and will have the Sole Right to dispose of This or That, *Exclusively of the Kings*, are neither so modest nor so thankful, as I sincerely wish they were: They maligning their Maker's Power, whereby they are what they are. I will add *ex abundanti* what may conduce to *Their* Conviction, (in this great Article of our Religion,) who would be thought of the Church of *England*. * *It is a Principle in Law, that of every Land there is a Fee simple in some body: But the Fee simple of the Land of a Prebend cannot be in the Bishop, or in the Prebendary, (both being at most for Term of Life, and Both Subject to Deprivations, for less then Treason, or Felony,) therefore tis in the King, as Original † Founder, whose Royal Right can never dye. King H. 8. and Ed. 6. did act accordingly, and the * same Authority which was made use of by H. 8. and Ed. 6. was declared by Parliament to be in Q. Eliz. her Heirs, and Successors. † Nor can any Discontinuance be any prejudice to a King's Right, who therein hath this Prerogative, Quod Nullum Tempus occurrit Regi. "And * when a King ordains any thing for "the Honour of God and the Church, he Wills not (saith my Lord Coke †) "that it turn to the Prejudice of Him or his Crown; but that his Right "should be saved in all Points. Besides the Church is for ever in Law a Minor, " (as I observed before) semper in Custodia Domini Regis. And tis unnatural that the Guardian should have nothing to dispose of (not so much as a Prebend) in the Minority of his Pupil, to which he is a Nursing Father.*

The

* Littleton S. 648. & Coke upon him. p. 344.

† Paolo Scarpi, ubi Supra. n. 77. p. 23.

* Stat. 1. Eliz. 1.

† Coke 1. Inst. l. 3. fol. 344. b.

* Westm. 1. 48. & 3. Ed. 1. Wing. p. 378.

† Coke ubi supra. 2. Inst. p. 3.

The King's Possessions and Rights (saith the same † Oracle of the Law) ^{† 1 Inst. l. 1. Sect. 1. & Stat. de Westm. c. 1. p. 501.} are called *Sacra Patrimonia*, & *Dominica Coronæ Regis*: So that 'tis *Sacri-ledge* to invade them. Nor can he *so* make them away, but that at one time or other they will revert unto the Crown. He is in Law *Summus Dominus supra Omnes*, (still the words of Chief Justice Coke,) of whom are held either *mediately* or *immediately* All the Free Lands of *England*, much more all Ecclesiasticals for term of Life onely, or *Quam diu bene se gesserint Possessores*. Lastly, The King is not only the *Legal Founder and Patron* of all the *Bishopricks* in *England*, and of all contained in them; (as *Causa Causæ* is ever *Causa Causati*) But he is himself in Person, the Supreme and Sovereign Bishop of every Diocese in *England*. It being the true and known saying of *Constantine the Great*, (an Englishman born, and *King of Britain*, as well as Emperour of *Rome* and *Constantinople*.) in his Speech unto the Fathers of the first *Nicene General Council*, ^{Euseb. in vita Constantini, l. 4. c. 24.} *ὁ υἱὸς τοῦ θεοῦ ἐκτίσας τὴν ἐκκλησίαν*. And every body knows, that the perpetual Ad- vocation or right of Patronage is a *Lay Fee*; as peculiar to many Lay Subjects, (much more to the Sovereign, *qui intra Ecclesiam potestatis Culmen habet*, say the *Canonists* themselves,) as *Institution* to a Subordinate Bishop, or other *Ordinary*, and *Induction* to an *Archdeacon*. Especially when the thing presented to is without Cure of Souls, as *Prebends* are. For where a *Parsonage* is the *Corps* of *4* *Prebendary* at large, and demi- fed for three Lives to a Secular man, (as most commonly it is,) the cure of Souls is wholly devolved and incumbent upon the *Vicar*, if at least there is a *Vicary* indow'd; and if not, upon the *Curate*. But the Rector and his Tenent are both *Exempt*.

Briefly our Monarch has a Right, as well by *Common* as *Statute Law* (and the Deans of *Sarum* have ever been largely Partakers of it by Royal Bounty) to * *Exempt* what Place he will from every Bishop's Jurisdiction; and (when he will) from the *Arch-Bishops*; such as *Pool*, and other places in the possession of Sir *John web*: Every *Ordinary* in *England* (such as is the Dean of *Sarum* in the *Clofe*) is An † *immediate Officer* to the King's Courts. And to the King Appeals lye even from the Court of *Arches*: His Majesty being in Law, *Le dernier Resort de la Justice*. And all Jurisdiction Ecclesiastical being both derived from, and inseparably annex'd to the Imperial Crown of this Realm, and that for ever, by || Acts of Parliament; from thence it is, that a Convocation cannot meet, without the King's Writ; Nor treat at their meeting, without his Commis- sion; nor *Establish* any thing when Commissioned, without his Royal Assent and *Fiat*. They who say less than this, *Do make Episcopacy Prejudicial to Monarchy* (which Bishop *Sanderson* could not indure) and set up a Papal-like Supremacy in a Protestant Kingdom. A Loyal Subject and Son of the Church of *England*, will conscientiously distinguish, with *Padre Paul*, between *Dominion* and *Dispensation*; and then he will du- tifully concede, That where the Bishop is *Dispensator*, the King is *Dominus*. ^{* Coke 1. Inst. l. 2. c. 11. Sect. 136. f. 96.—a. and f. 344. † 2 Inst. c. 19. p. 398. || E. G. 1 Eliz. c. 1. p. 32, 33. Paulus Sarpi- us ubi supra. n. 85. 86. 87.}

CHAP. II.

What I said in my Narrative of the King's (1.) Castle at Old *Sarum*, and of the King's (2.) Free Chappel in it (3.) before the Cathedral Church was built (All which is gain-said by the present Lord Bishop of *Sarum* in his Answer to the said Narrative) I take upon me to prove, and to place beyond Dispute, by not a few

of the best Historians who have written of those Times, whose printed Writings are extant, and do confirm what was produced out of the Dean of *Sarum's* Registre, which was extracted out of the Registres (for the most important Part of it) of the Ancient Bishops of *Sarum*; and which I thought had been Sufficient, without the Confirmations of it which now Enſue.

W. Malm. Hist.
nov. l. 2. Sub
initium.

Sect. 1. First, 'Tis plain from William of Malmsbury, that the ſaid Castle was the Peculium of the King, and ſtood upon the King's Soil. Castellum Salesberie Regij Juris Proprium erat.

Flor. Wig. ad
An. 1086.
Hoveden ad
eundem. An.
Daniel in the
Life of Rufus.
p. 48.
Eadmer. p. 55.
& 117.

Sect. 2. Next 'tis Evident from the ſame, and from other old Authors of greateſt Note, ſuch as Eadmerus, Florentius wigornienſis, Roger Hoveden, Simeon Dunelmensis (All elder than Matthew Paris) and Matthew Paris himſelf, and ſeveral others, that the ſaid Castle was a Place of Uſual Reſort for the Kings of England, and ſometimes for Extraordinary Meetings: As for Example;

Cambden in
Wilt. calls them
All the States
of England; &
ſaith that of e-
very penny of
the 3d. penny of
Sarum the King
had 20. s.

A. D. 1086. Aug. 1. Will. the Conqueror appointed his Bishops, Barons, Sheriffs, and their Milites, to meet him at Saſesbury, where, and when, the ſaid Milites took their Oaths of Fidelity to him. So ſaith Florentius of Worceſter (the Ancienteſt Writer, who hath mention'd the Church of Old Sarum) and Roger Hoveden.

This preciſely was the Year wherein was compiled the Doomsday-Book; as the ſame Authors, and the Book it ſelf Witneſs.

* *To whom add*
Daniel, p. 48.
a good Histori-
an, tho not an
old one.

*A. D. 1096. W. Rufus held a Council in his Castle at old Sarum (as the ſame * Authors Teſtify) when Oſmund was preſent. and took the Confeſſion of William de Alvery, before he went to Execution.*

† *A. D. 1133.*
Dan. in his
Life. p. 57.

A. D. 1100. Le Beauclere, Henry I. newly Crowned, held his Court in the ſame Caſtle. Arch-Biſhop Anſelm repairing thither to His Ma-jeſty among the reſt. So ſaith Eadmer. p. 55. † (He alſo held an Aſſembly of the Three Eſtates at Old Sarum, which had from that Time the Name of Parliament.)

Eadmer p. 117
Flor. Wigorn.
& Rog. Hoved.
ad an. 1116.

A. D. 1116. The ſame King called a Meeting of the Biſhops and Great Men of the whole Kingdom at the ſame Place. There to do their Homage to his Son William. So ſaith Eadmer. p. 117. Florentius, and Hoveden.

W. Malm. de
Pontif. l. 2.
f. 142. —b.

Hitherto is no mention of City, Town or Village, but of the King's Caſtle onely: Which W. Malms. thus deſcribes, Salesberiam, quod eſt vice Civitatis Castellum locatum in Edito muro vallatum non exiguo.

Daniel in King
Stephen. p. 61.

*A. D. 1140. The Arch-Biſhop of Roan in the Council at Wincheſter maintain'd, that by the Canons of the Church, Biſhops could have no Right to hold Caſtles; and that if they were tolerated by the King's Indulgence, they ought in times of Danger to deliver up the Keyes. Here the Queſtion then riſe (as Cambden tells us) Whether Biſhops might be the Governors of ſuch Strong-Holds, was determined by a great Church-Man: Againſt the Biſhops in general; and in particular againſt the then Biſhop of Sarum, whoſe monſtrous Avarice, and Pride, Perfidiousneſs, and Ingratitude, are by none ſo well expreſſed, as by our excellent * Biſhop of Hereford, de Praſulibus Anglicanis.*

Cambden in
Wilt.

* *Biſh. God-*
win in Roger,
the 3d. Biſhop
of Sarum. 224

Sect. 3. Thirdly, During the Time, Herman, the firſt Biſhop of Sarum, in point of Time (tho Oſmund was the Firſt in point of Dignity, and
Indow-

Indowment; and the † First who had any Cathedral Church, or Chapter in it:) It is agreed by *All Authors*, both Printed, and in Manuscript, That there was not yet any Cathedral Church, or Chapter, either *with-in*, or *without* the King's Castle: But only a *Chappel*, and a *Dean*, as now there is at *Whitehall*. For

No one Author in the World did ever say, that *Bishop Herman* did build the Church; the most that is said of him, is said by *Bishop Godwin*, That *Herman* laid a Foundation; and having so done, he dyed. || But his Church was in the *Air*, like some men's Castles; a meer *Imaginary* Church, and the Child of *Phantasy*. Nor indeed could it be more. For by the *Command of W. 1.* he had left the two Cathedral Churches of *Sunning* and *Sherburn* to the *Dean*, who then was *Formaliter* (as *virtualiter* ever since) *Dean of the King's Free Chappel onely* (without a *Chapter* or a *Church*;) And in whom, as their *Sole Ordinary*, *Sunning* and *Sherburn* have ever since been, with many *Peculiars* belonging to them, in *Berks*, and *Dorset*, in *Wilt*s, and *Devon*; (to which I might have added the County of *Oxford*, were it not that the said *Dean* has little *Jurisdiction* there, tho there he has some.) *Herman's* time was too short to build a Church at *Old Sarum*. He did rather *design* a Church, than so much as lay the *Foundation* of it. But All agree, That the *Favourite Osmund* (a Captain of *Say* in *Normandy*, who came in with the *Conqueror*, from whom he had All he had, and in whose *Castle*, whereof the King made him the *Governor*, *Conicerge*, or *Keeper*, he found no more than a *Royal Chappel*) both * *Built* and *Repaired* the Cathedral Church there, whose *Steeple* was burnt the next day after its being *Finished*. How by his *Master's* great *Bounty*, as well as *Licence*, He added a *Chapter* to the *Dean*, besides three *Dignitaries*, four *Arch-Deaconries*, &c. hath been expressed in my *Narrative*, and remains *Uncontradicted*. What his *Lordship* cites as the *Work of Mr. Bee*, *Sir Roger Twissden* was the chief *Designer* of, and must not be defrauded of the *Honour* due to him for that *Collection*.

Sect. 4. *Fourthly*, 'Tis acknowledged by my Lord *Bishop* himself (so God will have it many times, that *Truth* shall be justified by its *Opposers*, even in the *Act* of their *Opposition*) that *The Church of Old Sarum* was *Alwayes a Cathedral*; which is as much as to say, *There was not any Church* there, until there was a *Cathedral Church*. And 'tis as evident as the *Sun*, that no *Cathedral* could be there, before the *Bishop's Seat* was removed thither: Nor then, till 'twas built by the *King and Osmund*. And therefore,

Sect. 5. *Fifthly*, The King had a *Chappel*, for Himself, and his *Royal Family*, and his *Great Council* to Serve God in (as none in their way were more * *Religious* than in those *Times*) before he had in that Place a *Cathedral Church*. For besides the *Absurdity* and *Incredibility*, that in the King's special *Mansion* for *Strength* and *Pleasure*, where-in he had the *Great Conventions* of the *Lords Spiritual* and *Temporal*, and a *Family* in his *Absence* consisting of *Souldiers* as well as *Servants* (sometimes called *Ministri Regis*, and sometimes *Milites*) He should not have so much as a private *Free-Chappel* for publick *Worship*; I say besides This it appears as by others, so by *Radulphus de Diceto*, that the King's *Castles* in those *Times* had *Chappels* in them, for the King's *Honor*, as well as *Use*.—*Ventilata autem est hac Causa prius—in Paschali so-*

† Ego Osmundus notifico, Ecclesiam Sarisb. me construxisse, & in ea Canonicos constituisse, &c. Mag. Chart. Osmundi in Statut. de Colatione Prebendarum. f. 36. —b. 37.—a. || What is said by Malmsb. f. 161. (or f. 91. edit. London) is not said of Bishop Herman, but Bishop Roger, who being After Osmund, makes it nothing to the purpose. Besides, that 'twas written when Roger was in Greatness, & flatter'd for it. De gestis Regid. l. 5. * See H. Knighton, apud. Bee. fol. 2351. and Bish. Godwin. p. 272. & Osmund's Character ubi supra.

* W. 1. was so eminent for Devotion, that 'twas confessed by his Haters. So saith Daniel in the Life of W. 1. p. 43.

Red. de Dicit, A. D. 1072. p. 485.

† Registr. Jo.
Dec. Davyson.
A. D. 1375.
fol. 13.

|| Registr. Davy-
soni fol. 3. a.

lempnitate in CAPELLA REGIA quæ sita est in CASTELLO. This is confirmed by what was said in the Chapter's *Accusation* of Bishop Erghum to Arch-Bishop Sudbury. † *Infra castrum Domini Regis, & in Ipsius Solo, nullatenus Episcopi Sarum, primitus extitit fundata Ecclesia, ut Libera Capella ejus, ab omni Jurisdictione Diæcesani exempta, plena libertate, more aliarum Regiarum Capellarum Angliæ, gaudebat, &c.* Which Free-Chappel of the King was never deny'd by Bishop Erghum, and was owned in the Sentence of the Arch-Bishop for the said Chapter, Against that Bishop. And as the King's Chappel first, before the building of the Church; so the Church, as soon as built; and the Church-men, as soon as Founded, were every whit as much within the King's Castle, as the old Bishops of Sarum's Registres were able in Latine to express them. || *Continetur in Annalibus Pontificum inter Gesta bona memoria Domini Richardi Episcopi Sarum, quod antiquitus Canonici Ecclesiæ Sarum residebant infra Septa Castrî Veteris Sarum, usque ad Tempus Supradicti Pontificis. In cuius Tempore orta erat Persecutio, &c. ratione cuius, Rex Angliæ Præcepit omnibus Vicecomitibus, & Castellaneis suis, quod curarent, quatenus Loca Regia ubique Regio Usui Custodirent, non obstantibus quibuscunque Privilegiis Ecclesiasticis.* Then it follows at large, that the Cathedral Men going out of the Castle in Procession, had the Gates shut against them by the King's Soldiers or Servants at their Return.

Flor. Wig.
A. D. 1092.
with whom a-
grees Hoveden;
& Simeon Du-
nelmenfis, and
Petrus Blefen-
fis cited by
Cambden in
Wilt.

Sect. 6. Sixthly, The Church, after 'twas built (as well as the Chappel before there was a Church) was evidently Scituated within the King's Castle, Infra Castrum Domini Regis, as is attested by the Printed and Written Records of those Times, which my Lord Bishop contradicts gratis; but I suppose thro their Failures, whom his Lordship entrusted and employ'd. The Ancientest Writer extant, who mentions that Church, Writes thus expressly; Osmundus Searesbirienfis Episcopus Ecclesiam quam Searesbiria in CASTELLO construxerat, cum adiutorio Episcoporum Walcelini Wintonienfis, & Johannes Bathoniensis, Nonis Aprilis, feria secunda dedicavit. Others who are Ancienter than Matthew Paris, and more Authentick, have the same Words: To which agrees that Ancient Distich, which is cited by Bishop Godwin, and by Cambden in *wilt. p. 180.*

“ Quid Domini Domus in Castro, nisi Fæderis Arca,

“ In Templo Baalim? Carcer uterque Locus.

And this with very great Reason. For All the Prebendaries or Canons (two words for One Thing, not two Things. as the King's Attorney was made believe) and All other Church-men, except the Dean (who had an House and Demeafnes by the Rivers side, about half a Mile below the Castle, called still the Dean's Court, as Mr. Barker's House in Sunning is to this Day called the Deanery) were but as Prisoners in the King's Castle (compared with what they are now) for about One Hundred Thirty Four Years. And accordingly Bishop Poor made it the Ground of his Complaint, both to the King. and to the Pope, as that on which he then built his Petition to Both for a Removal.—*Ecclesiam de Castro & de † Carcere Regalis Potestatis laborabimus adificare, &c. posthac autem accessit ad Regem Angliæ, petens ab eo Licentiam, &c. — & postulans ab eo tanquam a Domino suo manus adiutrices. Cui Rex benignissime præbuit assensum, &c.* Lastly, 'tis confirmed by those words in the Bull of Pope Honorius the Third. * *Quod non patet aditus ad Ecclesiam sine Licentia Castellani.* Peter of Blois agrees with all these.

† Registr. Jo.
Davysoni. f. 3.
—a. &c. inter
gesta Richardi
Episcopi Sa-
rum.

* Evliensis
com. Tom. 20.
f. 120.

From

From all the Premises it is clear, That the Church was not only within the Precincts of the King's Castle, which yet is sufficient to prove it stood on the King's Soil (however deny'd by his Lordship:) But also within the Castle it self, strictly and properly so called.

Sect. 7. Seventhly, As the Castle and the Guard of Souldiers in it, and the Ground in which it stood, have been evidently proved to have been the King's; so 'tis evident that the Bishop held the Castle but as a Keeper, or as a *Maistre-d' Hostel*, or as a Tenant to the King, or at most as All Governors of Garrison-Towns and Castles, do hold them *pro Tempore* for the King; and even so both the Bishops, and Earls of Sarum (the Earls longer very much longer than the Bishops) held it only in Trust, and during Pleasure. Whence it was they were so often put in, and out, as our Kings saw good; and as I have elsewhere shewn at large, even out of such Publick Monuments as are confessedly the Best. This appears by the Grant of it to Bishop Roger, as Great a man with H. 1. as Osmund was with his Father William, tho of a far more contemptible and Base Beginning, and one who grew Great by the basest means. *Malmsbury* sets it forth thus.

"Castellum Salesberie (or Sedberie, as Eadmer calls it) Quod Regij *Juris proprium esset*, ab Henrico Rege impetratum muro cinctum, Custodie fux attraxerat. Thus Osmund held it as a Custos, of W. 1. and W. 2. and Roger as a Custos, from H. 1. who found it encompassed with a Wall, which Wall about the Castle seems to be all, which gives any Colour for that saying of my Lord Bishop, That Roger encompassed the City with a strong Wall. Whereas the Castle so encompassed was not Civitas, but only vice Civitatis, as W. of Malms. precisely words it: Thus the word Tenet is explained in *Doomsday-Book*, *Episcopus Tenet Saresberry*. And thus what follows in my Lord Bishop's Answer, [That the Castle it self did belong to the Bishop] does of it self fall to the Ground, without any stricter Examination of the Proofs, which do not say any such thing, as that for which they are pretended to appear: But the Contrary rather is from thence to be inferred. Nor do I see to what purpose those words are added by my Lord Bishop in the Margin, [vid. Bee. fol. 2351.] unless it be to confute the Text. The Place is in Henry Knighton *Leycestrensis*, who did not write till 300. years after, reaching to the Death of Rich. 2. about 1400. and who speaking of the King in Council, commanding the removal of Bishops Sees, does add these words — *Hoc anno Hermannus Episcopus Primus Sarisburiensis Obiit. Cui Successit Osmundus Regis Cancellarius 24. annis. Qui Ecclesiam Novam, not Renovatam ibidem construxit*. Thus his Lordship's Citation makes quite against his own Pretentions. Osmund did not only repair, but first built the Church, which Herman at most did but design. So Mat. Paris in the place cited, calls it (not the Bishops, but) the Earl of Sarum's Castle. For W. 1. gave it to Walter d' Evereux † Earl of Rosmar in Normandy, as to a Keeper; so H. 1. gave it to Bishop Roger, from whom it was taken by King Stephen, as from a Monster of Ingratitude, and as from a Perjured Rebel. Then the Custody of it was given (not to the Bishops, but) Earls of Sarum, and continued in them by Cœur de Lion R. 1. and King John; after whom it was taken by H. 3. from the Grandson of W. Longespee, and given to Margaret Countesse of Sarum, whose husband being attainted, 'twas resumed by E. 2. and after given by E. 3. to W. Montacute, of whom tho bought by Bishop Wivil for 2500 Marks, (not recovered by Law, nor won by Combat,) 'twas yet soon resumed; and given by H. 4. to Rich. Nevil, whom he made Earl of Salisbury.

* Cambden in Wilt. names but one or two Bish. whoever had it. But a Long Train of Earles, who had part of the Old Castle for a dwelling House a long time after the removal of the Cathedral, & Townsmen.

Malm. Novel. l. 2.

* De Pontif. ubi Supra.

† Castrum Comitum, (non Episcopi) Mat. Paris f. 439. Cambden in Wilt. Bishop Godwin p. 280

Twas after given by E. 4. to his Brother Richard Duke of Gloucester. At last H. 8. restored the blood of Margaret, and made her Countess of Salisbury. After whose Attainder and Decapitation, (when she was 70 yeares old,) in the year 1605. King James gave it to Sir Robert Cecil, and his Heires, in whom it is at this day, and is rented by the Good Relict of the most excellent Bishop Earl.

Thus we see to how few Bishops, and to how great a Number of Earles, the Custody of the said Castle was Concredited by our Monarchs from time to time, as its Keepers were esteemed more or less worthy to be entrusted. And to argue it was the few Bishops Soil (two or three at the most,) or the Soil of the many Earls, because our Monarchs made them Governours during Pleasure; is as if a man should argue, that the City of Oxford (when it was is Garrison'd) was not the Kings, but Colonel Leg's, Sir Arthur Aston's, Sir Thomas Glenham's, &c. because they were the Governours, unto whose Custody 'twas committed. Or that the Castle of Windsor is the Earl of Arrundel's, exclusively of the King, because the King gave him lately the Honour of it.

* *Ministri. D.*
Regis.

† *Infra Cast-*
rum Domini
Regis.

Now having proved that the Castle of Old Sarum was the Kings; and that the King's Servants * were in it, for more than 130 yeares; and that the Cathedral Church of Sarum was † within the Kings Castle; (which yet was confidently deny'd to the Lords Commissioners;) and that our Kings from the Beginning have Acted in as Absolute and as Despotical a manner in and over the Church of Sarum, as in any of their own Mansion Houses within these Realms; Common Sense will infer, and inform the most indocil, That where the King (William the First) had a Castle and Family in it, he had a Chappel for God's Service, and his Chappel was Free. How strange a thing therefore is it, for men to lessen that Monarch in his Prerogative, who did not only make them, but does still keep them Great. How often had the Hierarchy been trodden utterly under foot, if the King singly had not Sustained them? How many Parliaments may be convened, who will Vote down All Bishops, and Deans, and Chapters, (*ab Actu ad potentiam optime valet Argumentum,*) if the King will prompt them to it, or but Consent when it is done? They who look downwards upon themselves, but neither backwards, nor forwards, on the yeares that are passed, and the yeares to come, do not consider what Protections they have received from the King (at the King's great cost,) or what Protections for the future they may have a sad Occasion to wish and pray for.

Burton de Li-
bertate Capel-
larum Domi-
ni Regis, 1245

And here I should have ended this 2d. Chapter, but for a Passage out of the Annals of Burton Abby, Ms. 1245. Which shews that even then, in the Time of H. 3. (long enough after Osmund, and W. 1.) the King of England had Many Free Chappels, and was resolved to keep them Free. Indeed so many, that diverse Parish Churches which did but Neighbour on the King's Castles, were apt to pretend to that Priviledge. Yea the Chappels in the King's Castles were Confirmed in their Immunities, Exemptions, and Liberties, by Popes themselves: As appears by that King's Proclamation Dated, at Westminster March the 3d. in the 30. Year of His Reign. Wherein he strictly Commanded, that the said Freedom of his Chappels should be * Perpetual. *Et ne Aliquis contra prædictum Privilegium aliquid audeat attemptare.* Nor hath any of our Monarchs taken away or surrender'd that glorious Branch of their Prerogative; whatever Subjects have attempted by joining with Boniface the 9th.

* Volentes
Privilegium
Illud in perpe-
tua firmitate
manere.

C H A P. III.

WHEREAS 'twas affirmed by the Bishop of *Sarum* to the Lords, That there never was a Time when either the Dean and Canons were exempt from all Jurisdiction of the Bishop of *Sarum*. The contrary to it is confessed and strongly proved by his Lordship himself in the very next Words following, wherein his Lordship cites *The Composition* that was made between Bishop *Waltham*, Dean *Montacute*, and the Then Chapter of the said Church, which was no longer since than in the Year 1391. whereas the *Absolute Exemption* of the Dean and All the Canons from the Bishops Jurisdiction, was in the Year 1095. Between which two Dates, there was an Interval of almost 300 Years.

Which *Composition*, so called, was indeed a *Conspiracy* of the said Bishop, Dean and Chapter with Pope *Boniface* the Ninth, by whom it was confirmed, and for which by the Laws of *England* (even * *Then in force*) they did incur a *Premunire*: Which All the Bishops ever † since are humbly conceived to have incurred, who have presumed to Act according to *That Conspiracy*, 1. Against the Supremacy and Prerogative of the King; 2. Against the Common, and Statute Law of the Land; 3. Against the Fundamental Statute of our Subordinate Founder *Osmund*; 4. Against their own Souls in two respects, first in respect of the Several Oaths, which have severally been Sworn by all the Bishops, Deans and Chapters, That they would keep, and cause to be kept (as much as in them lay) that Fundamental Statute of *Osmund*, with all the Privileges, Dignities, Immunities, and Exemptions therein contained; of which Oaths the said Conspiracy or Composition is a *Professed Violation*, as shall be shewn in its proper place. Secondly, in respect of the heavy Curse, which *Osmund* denounced against All those who should dare to pervert the said Fundamental Constitutions in any kind. 5. Against its own *Being*, by reason of its several *Inconsistencies* with it self, and of the several Nullities contained in it. Lastly, Against the *Well-being*, if not against the very *Being* of the whole College within the Cathedral Church of *Sarum*, by reason of its most scandalous and most mischievous Effects. But of each in its Order.

* 25 Ed. 3.
c. 22. 7 Rich. 2.
c. 12.
† Judge *Jenkins*, p. 24.
says, 'Tis Treason to pay Obedience to the Pope, or to any other than to the King. For which he cites 23 Eliz. c. 1. and 3 Jac. c. 4. §. 22, 23.

§. 1. First, It was a Conspiracy against the King of *England* and his Prerogative, who is in Law declared to be the *Founder* as well as *Patron* of all the Archbishopricks and Bishopricks in *England*, but took care in his Original Charter granted to his Favourite *Osmund*, (sealed first with the Seal of *W.I.* and then with the Seal of *W.II.*) to exempt his Dean and All his Prebendaries or Canons from the Bishops Jurisdiction in as full and as plain a manner, as Latin words could express an *Exemption* by. In words so carefully contrived against all possible Affectation of Jurisdiction over the College of Dean and Chapter, in any succeeding Bishop of *Sarum*, that what the present Lord Bishop of *Sarum* would make an Argument for himself and his Affected Jurisdiction, makes quite against him. For the *Voice* and the *Place* which the Bishop has in *Chapter* (common to him with all the 52 Canons) he has as *Prebendary of Pottern*, not as Bishop of *Sarum*; nor has he so much as a *Second Voice* as he is *Prebendary of Blewbery*, because he was never admitted to it by

* *Dignitas est*
Decani, & om-
nium Canonici-
corum, &c.

† 1 Ed. 6. c. 2.
§. 3.
1 Eliz. c. 1.
§. 17, 18, &c.
8 Eliz. c. 1.

|| Coke 1. Inst.
12. c. 11. p. 134.

* 27 Ed. 3.
Tit. Præm. c. 1.
With which
Statute com-
pare 25 Ed. 3.
c. 22. and
7 Rich. 2. c. 12.
where that
King declares
against his
granting any
such Licence as
is pretended.

Installation, nor lawfully could be. For when *H. 2. had given two Prebends to One man in one Church*, Pope *Alexander the Third* complained of it in his Letter, as Unlawful, and Uncanonical. (Not denying the King's Right of conferring Prebends, but the *Evil use* of it.) So that the Bishop in *Capitulo* has but one single Vote, and the liberty to propose what he thinks may tend to the good of the Church, or to complain of what he takes to be amiss, (as every other Prebendary has as free liberty to do,) and to be punished or amended by the Authority of Dean and Chapter. Nor is it said to be the *Duty*, but the * *Dignity* of the Dean and of all the Canons, *ut Episcopo in nullo respondeant, nisi in Capitulo*. To which 'tis added in the next words, (what his Lordship does not mention) *& iudicio Tantum Capituli pareant*; where the word *Tantum* excludes the Bishops Judgment or definitive Sentence of any matter, & limits it wholly to the Body of the Great Chapter (consisting of All the Canons Non-Resident and Resident) whereof the Dean is the Head, and the Prebendary of *Pottern*, a worthy Member; but the Bishop as Bishop is neither of them. Nor was this *Signal Exemption* only in the *Foundation* of the Cathedral, made at once by the *Supreme* and the *Subordinate Founder*; but it was *Repeated* and *Confirmed* by *H. III.* and Bishop *Poor*, in the Removal of the same from *Old to New Sarum*, in the years 1220. And the same *Oaths* for the due observance of it, have been ever since Sworn by all the Bishops Deans and Chapters without Exception. All which was alleged *with effect* in the Chapter's *Accusation* of Bishop *Erghum* to Archbishop *Sudbury* (1375,) whom they charged before his Grace at once with *Perjury* and *Usurpation*, for affecting a Jurisdiction over the Canons when the Dean was Dead, and the Deanry Vacant, at a Time wherein the Bishop had a little colour for it, which might excuse his Sin à Tanto. Much more might they have done whilst the Dean was yet Living, if such an Incroachment had been attempted. Besides it was against the *Imperial Crown* of this *Realm*, by being against the Decanal Jurisdiction, which is † *for ever and inseparably thereto annexed*, and granted unto the Dean under the Great Seal of *England*.

§. 2. Next it was against the *Common and Statute Law* of the Land. Against the first, because the King's *Prerogative is Law*, and the *Principal part of the Common Law*, as that from which our Statute Laws are derived; and 'tis a Principle with my Lord Coke, "The || *Common Law disallows Acts done to the prejudice of any Subject of this Realm (much more of the Sovereign) by any Foreign Power out of the Realm, as things not Authentic*. Such was the Power of *Boniface* the Ninth meerly *Foreign*, and Prohibited as such by several Statutes then in force, and ever since. Against the second, because there were *ab Antiquo* (before the Petition made to the Pope by the then Bishop, Dean and Chapter for the *Papal Confirmation* of the Conspiracy aforesaid,) Acts of Parliament in force, against *Appealing* to, or *Petitioning* the Bishop of *Rome*, or any other *foreign Power*, either for *Grants* or *Confirmations* of any Acts, or *Combinations*, or *Associations* whatsoever, within these Realms; and therefore one *Abbot Moris* in the 46 of *Ed. 3.* incurr'd the Pain of *Præmunire*, for sending to *Rome* to * *be confirmed* by the Pope in his Election to his Abby, which the Pope (forsooth) gave him of his *Spiritual Grace*, and at the Request of the King of *England*,

as

as he fictitiously pretended. The Bull was consider'd of in Council, before all the Judges of *England*, and by them All it was resolved, that this Bull of the Pope was against the Laws of *England*; and that the Abbot, for obtaining it, *was faln into the King's Mercy*; whereupon *All his Possessions were seiz'd into the King's Hands*. The same Penalty was deserved by them who made the *Composition* we are upon, and petitioned the Pope for his *Confirmation*. And though 'tis pretended to have been done at *Rich. 2.* his *Intercession*; yet it is *but pretended*, according to the *Usual Trick*, the Practice and Policy of the Popes, to *feign* Requests from the Kings of *England*, who scorn'd to make them; as they did often pretend to *Give*, what they could not *deny*, or durst not offer to withhold, and knew they had not either a Right to confer, or a Power to hinder. Choice Examples of which are given by the Learned and Reverend Archdeacon *Fullwood*, in his *Subversion of the Romanists Pleas for the Popes Supremacy in England*; and though *Rich. 2.* was so *incomparably careless* of his every thing that was his, even to his *Kingdom*, Crown and Dignity, which brought upon him his *Deposition*, as Historians are wont to call it. And although such an *Act of Intercession to the Pope*, as is pretended, had had an absolute Nullity in it self, had it been True; yet hardly any man can believe it, who shall consider the Statute made in the † same Kings Time, against all Papal Usurpations, which to *own*, and to *use* as things of Right, is to incur a *Premunire*. Besides that *Rich. 2.* had acted against other Parliaments also, as well as against his *own*, and against his Declaration, in case he had done, as is pretended. But that the *Trick* I now mention'd was often used by the Popes, we cannot prove by a better Testimony than that of the most Learned and most sincere *Padre Paul*, who speaking of the Times of *Paul the Fourth*, in giving that to Queen *Mary* which was her *own* long before, and inherited from her Father, King *H. 8.* concludes with this signal Observation: *Cosi spesso i Papi hanno donato quello, che non hanno potuto levare a possessori; & questi per fuggire le contentioni, parte hanno ricevuto le Cose proprie in dono, & parte hanno dissimulato di saper' il dono, & la pretensione del Donatore.* Add to all this, that the said Conspiracy was expressly against *Magna Charta*, by which the Deans and Chapters Liberties, Exemptions, and Jurisdictions, were confirmed and secured, and that by no fewer than * 32 Acts of Parliament. And *Magna Charta* is not only a *Statute Law*, as old as since the 17th year of King *John*, though made more full and with more Solemnity in the 9th Year of *H. 3.* But moreover by the Act of 25 Ed. 1. 'twas adjudged in Parliament to be taken and held as *The Common Law*. (They are the words of Chief Justice *Coke*, in the Preface to his Comment on *Magna Charta*.) In a word, The Application made to the Pope at that Time against the Laws of this Realm, was a strong proof of its Corruption. For 'twas the Observation of the most wise *Padre* † *Paolo*, that *None went to Rome out of Devotion, but only out of some Design against the Canons and Customs of the Church, which being unable to get approved in their own Country, they fled to Rome, where Dispensations were vendible for every thing, and the Avarice or Ambition cover'd over with an Apostolical Dispensation or Confirmation.* So he in his Treatise of the *Almes of the Faithful in the Primitive Church*,

† 16 R. 2. c. 5.

Hist. Concil.
Trident. l. 5.
pag. 101.
An. 1551.

* Of the 32
Acts are those
of 50 Ed. 3. c. 1.
& 2. A. D. 1376.
& 1 Rich. 2. c. 1.
& 34 Ed. 1.
St. 4. c. 4. &
4 H. 4. c. 3.

† Fra. Paolo Sarpi, N. 74. p. 22.

§. 3. Thirdly, The foresaid Composition was even *knowingly* and *professedly* against *The great Fundamental Statute* (commonly called in our Books *Magna Charta Osmundi*,) of the *Subordinate Founder Osmund*, and by a Consequence unavoidable against the *Sovereign Founder* also, whose Royal Seal alone was affixed to it. That 'twas *against* the said Charter and Fundamental Statute, and *against* the *Exemption* of Dean and Canons, and all Inferior Members also belonging to the *Kings Free Chappel*, (which any man may *deny* whose Tongue is his own, but no man living can *disprove*,) hath already been evinced, and shall be further, as occasion shall be offer'd. But that 'twas *knowingly* and *professedly* against the same, is moreover to be proved from the Conclusion of the Conspiracy. For as there is a *Contradiction* to the Fundamental Statute and Charter both Regal and Episcopal, fol. 76. a. so in the next page of that Leaf there are these bold and unexcusable Words——*Non obstante Statuto & Charta predictâ*. The King himself in Parliament could not have spoken in a more Imperial strain. Archbishop Boniface on the contrary, A.D. 1262, had most tenderly provided for the *Liberties of all in the Church of Sarum*, according to the Tenor of Osmund's Statute; though he was in all his time the most assuming Archbishop of *Canterbury*, even from that to this day. Whereas in the Conspiracy of the aforesaid Pope Boniface with the then Bishop, Dean and Chapters, there is this aggravation of the astonishing design against the King; that it hath a *special Salvo* for the *Popes* and his *Cardinals*, and the *Dean of Sarum's Rights*; but *none* at all for the *Kings*: Yea, as if that were not enough to affront the King by, it takes upon it to decree the whole Revenue of the *Deanry*, *Decanatu vacante*, to the Chapter; which, (as well as the Revenues of all the void Bishopricks in *England*,) belong by Law to *The King alone*. Lastly, *The Goods of the Church* (as the Chapter words it) which Osmund gave to the Dean and Canons, he gave them even so, as he had received them of the King, with a *Liberè prout Ipse obtinueram*; (meaning his Master *W. I.*) and adds a little after, in his repeated *Exemption* of all the Prebendaries or Canons from all Intermedlings of any Bishop who should succeed him, *Habeant etiam Curiam suam in omnibus Præbendis suis, & Dignitatem Archidiaconalem, ita ut nulla omnino Exigentia vel in Dono, vel in Assisâ, aut aliquâ aliâ Consuetudine ab Episcopo vel aliquo alio fiat, &c. Sed (è contra) omnes Dignitates, & omnes Libertates plenariè & pacificè habeant, quas Ego Osmundus Episcopus in iisdem Præbendis habui, aut aliquis* alius, cum eas in Nostro Dominio haberemus*. 'Twas in contempt and relation to this Emphatical *Exemption*, as well as that which was instanced in before, That the Bishop, Dean and Chapter, conspired with Boniface the Ninth against the Statute they were sworn to keep inviolate, with a prodigious *Non obstante Statuto, and Charta predictâ*. And therefore,

* That is, The Conqueror himself, from whom Captain Osmund had all he had in the World, and did hold by Knights Service, or any whom the said Osmund might have entrusted or employed.

§. 4. Fourthly, *It was against their own Souls*. For it follows in the same Charter, or the great Fundamental Statute, (wherewith all after Statutes must stand or fall,) that every one of the Foundation must take an Oath at his Admission, *Se Dignitates & Consuetudines Ecclesiæ Sarum inviolabiliter observaturum*. And if any one shall presume to violate or pervert the said Statute of the Foundation, *perpetuè Anathema*.

thematizetur, is the Form of the *Curse* used by the King and Bishop Osmund on the Transgressor. Nor is it meant of the *Lesser*, but *Greater* Cursing, which the *Old English Festival* and the *Articles* found in *St. Paul's Church at Canterbury, A. D. 1562.* do define to be "Such a Cursing, or Vengeance-taking, that it departeth a man from the Bliss of Heaven; from House, Christ, and all the Sacraments of Holy Church; and betaketh him to the Devil, and to the Pains of Hell without end. Such was the force of the word *Perpetuo*, when such Cursings were in use. In a due fear, and for the prevention of such a Curse upon such a *Perjury*, the Chapter of *Sarum* in their Complaint to Archbishop *Sudbury* against Bishop *Erghum*, for violating his Oath by usurping a Jurisdiction, and by presuming to visit certain Prebends whilst the *Deanry* lay void, did present how All the Privileges which had been settled in the *Foundation*, were continued and confirmed in the *Removal* of the Cathedral, and that by a Bull from Pope *Honorius*, cum hac clausula in *Literis Apostolicis inserta*, [*Salvis ipsius Ecclesie Sarum Privilegiis, Dignitatibus, & Consuetudinibus.*] "Ad dictas etiam Ordinationes, Consuetudines, Libertates & Dignitates fideliter tenendas & inviolabiliter observandas, Episcopi, Decani & Canonici *Sarum* Præbendati, eorum temporibus successivis, omnes & singuli, juramentis Corporalibus ad Sancta Dei Evangelia, præstiti, realiter fuerunt & sunt astricti. Whereupon they pray'd the Archbishop of the Province, so to interpose his Metropolitcal Power as that the said Bishop of *Sarum*, for the salvation of his Soul, might revoke and retract the Visitation he had begun, and the Chapter enjoy their owns without disturbance. Placeat igitur Paternitati Vestræ taliter interponere Partes Vestras, ut dictus D. Episcopus *Sarum* omnia præmissa illicitè attentata, & præcipue Visitationem sicut præmittitur Decanatu vacante de facto inchoatam, pro Salute animæ suæ revocet, & præfatum Capitulum & Præbendarii omnes & singulos commodo *Foundationis*, &c. — liberè gaudere, & in solidum exercere, quoad omnia præmissa in Pace permittat in futurum. Lastly, The Fundamental Statutes and Customs of our Church were so confirmed by *H. 8.* in his Regal Visitation of it, *An. Dom. 1535*, that the Bishops of *Sarum* for ever are as much subject to them, as any other. The Bishop there by Name is the first bound up; and bound up to the observance of no other Statutes and Customs, than do agree with the Word of God, and with the Laws of the Land, with which the said Papal Composition hath been proved to disagree; and as it professedly does oppose the Royal Charter, and the Fundamental Statute, on which our whole Endowment stands; so I set This against That, the Fundamental Charter and Statute, against the Novel Composition or Combination.

Sir T. Ridley's
View of the
Civil Law,
part 3. c. 3. §. 2.
p. 172, 173.

¶ 5. Add to this, that the *Composition* hath several other Nullities in it, arising from its several Inconsistences with it self. 'Tis inconsistent with an Episcopal Jurisdiction, 1. Not to be impowered to Visit Triennially, and 2. To be interdicted a *Procuracion*; 3. * Only once in Seven years; 4. And then † without any Regard; 5. And in the || Chapter House only; not where he will, excepting the Archdeacons, whom 'tis said he may Visit † elsewhere: 6. A fault or default in a Prebendary at large to be corrected, (not by the Bishop, but) by Dean and Chapter,

* De Septennio
in Septennium
distaxat.
† Fol. 67. a.
|| Fol. 65. a.
† 65. b.



† Fol. 63. a.

or by the *Dean alone*, as is usual without a Visitation; (*fol. 66. b.*) 7. A Power is pretended, to inquire what is amiss among all the *Secular Inhabitants of the Close*, and to reform, or correct, if the *Dean* does not; (*f. 66. a.*) which hath an absolute Inconsistence with the *Salvo* made before for the Rights of the *Dean*, in these words, [*Visitatione & Jurisdictione † Decanali in omnibus, & per omnia Decano & Successoribus suis semper salvis.*] Now when it shall be made to appear, not only by immemorial *Practise*, but by *Decisions* of Authority, and by the *Confessions* of this present Bishop, (yes, and by his earnest Contentions for the *Dean* against himself,) that the *Close* is the *Dean's Peculiar*, and not the Bishops; that the *Dean* has *All* the Ecclesiastical Jurisdiction, and the Bishop *none* at all; that all Persons and Causes of Ecclesiastical cognizance within the *Close*, yea, within the Bishops own Palace, are to be *Tried* and adjudged in the *Deans Court* alone, not at all in the Bishops; Then I trow 'twill be granted to be a monstrous Absurdity and Inconsistence, for *One Ordinary* to be the Visitor of *Another*, who hath a *Co-ordinate Jurisdiction* with himself in many other places of *Wilts* and *Berks*, and a Superior to him in *One*, and a *sole Jurisdiction* in that very *Close* wherein the Cathedral Church stands, and yet wherein the Bishop pretends to be the *Deans Visitor*; which is to take upon him a *Regal*, or *Metropolitcal Authority*, to which two alone the *Dean of Sarum* is subordinate in his *Peculiars*, as all others are who have Episcopal Jurisdiction within the *Province*; even abstracting from the Relation the *Deans of Sarum* ever had to the *King's Free Chapel*, whereof the *Privileges* remain, and were ever reserved, though the *Formality* is obscured in a Great Cathedral Church. This last Absurdity spoken of, may be made to appear by these following Degrees.

N. 1. First, There never was a Time since the *Foundation* of the Cathedral within the Kings Castle of Old *Sarum*, or since its *Removal* to the *Close* of New *Sarum*, (which *Close* must be distinguished in all our Discourses from the City, which no body denies to be in the *Bishops Jurisdiction*, and in the *Sub-Deans* two years in three,) wherein the Bishop *was*, or wherein the *Dean of Sarum* was not, *Immediatus Loci Ordinarius*. Let them name it, and prove it, who are bold enough to say there was such a Time: As the *Dean* has named plainly, and also proved the space of Time of almost 300 years, between the Kings and *Osmund's Charter* on one side, and the Infamous *Composition* on the other side, by which the Bishop hath pretended some Jurisdiction over the *Close*, five days in seven years, though none at all before or after so great a space as seven years: Which (by the way) is another Absurdity and Inconsistence. No Instance can be given of any *Will* proved within the *Close* by any Bishop, or any Letters of Administration granted, or any matter of Instance tryed, or any Fornication punished by any Bishop since the *Foundation*; but only by the *Dean of Sarum*, who is confessedly in the Statute of Bishop Roger himself (though an high-flying Bishop) *Loci Ordinarius Immediatus*. See the Statute *De Testamentis Decano insinuandis*. Now that is clearly an *Immemorial Practise and Possession of the Dean*, which has been *a Tempore, & per Tempus, cujus contrarii memoria hominum non existit*. Which Allegation to the Archbishop, for the Chapters *Exemption* from the Bishops Jurisdiction, Bishop *Ralph Erghum* could not deny, and there-

whereupon was decreed against. 2. Next, the *Decisions of Authority* have been for the Dean, and against the Bishop, as often as Authority hath been appealed unto, which has been seldom.

1. In the Year 1301, when the then Bishop *Simon de Gaunt* endeavoured to invade the Decanal Jurisdiction, over the Canons and other Members of the Cathedral Church of *Sarum*, *Petrus de Subaudiâ*, then Dean of *Sarum*, did by his Instrument in Writing, on the Third of *October*, Prohibit the Prebendaries or Canons, and all other Members of the said Church, and discharge them from submitting to the said Bishops Visitation.

N. 2. No longer since than in the Year 1665, *John Elliot*, LL. Doctor, Chancellor then to *Dr. Alexander Hyde* Lord Bishop of *Sarum*, cited one *John Wickham*, Servant to Mr. *Chapin*, living then in the Close of *Sarum*, unto the Bishops Consistory for Incontinency, &c. *Wickham* not obeying the Summons, was by the said Chancellor *de facto* Excommunicated. Whereupon Mr. *Richard Kent*, then *Prebendary* of *Sarum* and *Surrogate* to the Reverend *Dr. Richard Bailly*, Dean of *Sarum*, perceiving the Invasion committed upon the Dean's peculiar Jurisdiction, by *Dr. Elliot* the Bishops Chancellor, in citing *Wickham* within the Close, Absolves the said *Wickham*. Whereupon the Bishop makes his complaint to the Archbishop *Gilbert*. The business came to an Hearing in *St. John's College Gallery* before the said Archbishop, and *Edward Earl of Clarendon*, Lord Chancellor of England; (the King then residing in *Oxford*.) And the Issue was this; That the Bishop should not intermeddle with any Ecclesiastical censures, things, or Persons, out of his own Palace and Family; but that the whole decision of Ecclesiastical Matters within the said Close, did, and do purely, wholly and solely belong unto the Dean.

This is a True Copy of the whole Relation of the Matter from the Reverend Dr. Rich. Bailly, received by me the Surrogate to the said Dr. Rich. Bailly, Dean of Sarum. Itateffor Rich. Kent, primo Jun. A.D. 1678. Subdec. Sarum.

N. 3. Yea, since the present Lord Bishops, and the present Dean's Time, there was a Crime committed within his Lordships own Pallace, and by his Lordships chief Domestick; which being a Crime of Ecclesiastical cognizance, was by consequence to be punished by the Kings Ecclesiastical Laws. The Bishop applied himself first by Letters to the Dean and Chapter *conjunctim*, for the Punishing of the chief Party in that Comission; proposing the *Composition* to them, whereby his Lordship was in hope a Correction *de bene esse* might be favourably inflicted. The Dean and Chapter met on purpose in *Dr. Drake's House*, to Read and to consider of the said *Composition*. Which having done, They unanimously agreed in this Judgment, (of which they sent his Lordship word,) That the whole *Composition* (supposing it to be valid,) was wholly impertinent to the Matter in hand: And that none but the Dean alone, as the *Sole Ordinary of the Close*, could Summon both Parties into his Consistory Court, and put the Law in Execution. The Dean however made a delay, because the Principal Offender had committed the Fact in the Bishop's Palace, which he was willing to esteem a place Exempted from the Decanal Jurisdiction. And this he pleaded to the Lord Bishop, whom he desired to correct his own Domestic in his own Family, or in his own Court, which the Dean said, he would warrant

warrant his Lordship the doing of by Letters Dimissory, or License under the Seal of his Decanal Office. But his Lordship urged with great strength of Reason, as well as Earnestness; (1) That such a Liberty in the Close, was more than either the Dean could give away lawfully, or the Bishop receive. (2) That the Party cited into his Court might appeal to the Arches from the Bishop *tantum à non Judge*, and make the very Judge of that Court a *Criminal*. (3) That the Dean might Summon a Prebendary to appear in his Court by a certain day from any part of the Kingdom; but (4) That the Bishop could not cite him into His, however nearly an Inhabitant. Whereupon the Dean of *Sarum*, acknowledging the Bishop too hard for him in the Contest, was forced to own his Unavoidable Authority in the Close, *as inseparably annexed to the Imperial Crown of these Realms*, (which is the language of * several Acts of Parliament,) and not without Trouble and Seditious, did satisfy the Law upon both the offending Parties.

* See 25 H. 8.
20. & 26 H. 8. 1.
& 1 El. 1. §. 17.
n. 1. & §. 18.
n. 1. and other
Statutes recited
8 Eliz. cap. 1.

N. 4. Since which time also, no longer since than on the 15th of September 1681. the present Dean was desired by Mr. Archdeacon Woodward, then the Bishop of Sarums Surrogate, Now the Chancellor of this whole Diocese, to permit and allow the People of Broad-Chalk in Wilts, to ask the voluntary Benevolence of Persons living within the Close of *Sarum*. To whom the Dean gave his leave, or permission rather, in these words following: *As far as the Laws of this Realm permit, and being earnestly requested, as well as moved with the Resentment of so many mens Losses within the Parish of Broad-Chalk, I do allow the said Sufferers to try the Charity of the Inhabitants within my Peculiar of the Close of New Sarum, though not in any other Place under the Decanal Jurisdiction of*

Tho. Pierce, Dec. Sarum:

Now it is to be noted, that the Parish of *Broad-Chalk* is under the Bishops Jurisdiction; and that the Lord Bishop was then at home, in his Palace within the Close; and that his Leave had been sufficient without the Deans, had he had any Jurisdiction within the Close; much more had his Jurisdiction been *Archiepiscopal*, or *Regal*, and so Superior to the Deans. Lastly, That the Bishops Surrogate, knowing well that his Lordship had none at all within the Close, (though his Lordship and the Sub-Dean have all between them in the City,) did therefore make his Application to the Dean, and the Dean only. In like manner the Collection which was made within the Close for the rebuilding of *St. Paul's London*, the Redemption of Captives, and the like, was made and returned by the Dean only and his Officers, according to the King's Order and direction.

N. 5. If we step as far back as to the Year of our Lord 1584. we shall find the great difference between a Bishop of *Sarum*, who was first Dean of *Sarum*, and a Bishop who never was Dean of the same Church. For Dr. John Pierce, whilst Dean of *Sarum*, did in conjunction with his Chapter, and by Command of Queen Elizabeth, (to whom he was Almoner many years,) upon the 17th of October 1573.* begin the good work of abolishing Superstitious and Popish Statutes, without the consent or the assistance of the then Bishop Edmund Gheast. (Though he so swept the Church, as to leave some Dust behind the Door.) But being afterwards Bishop of *Sarum*, (as after that, Arch-
bishop

† Testante
Blackier Notar.
Publ. f. 39. b.

bishop of York,) he got a Commission from the Archbishop of the Province to visit the Church upon occasion of the Case of *Dr. Stuch*, and said, he was *fulius Jurisdictione Metropolitana*; knowing well, and confessing, that, as Bishop of Sarum, he had no right to Visit the *Choral Vicars*, much less the *Chapter*, much less the *Dean*; for if he had, he would not have needed any Commission from the Archbishop of the whole Province.

N. 6. The said Exemption of *All the Canons* of the greater and lesser Chapter, who make a *Superiour Corporation* whereof their Dean is the Head, may be yet farther proved by the Exemption of *All the Vicars*, who are an *Inferiour Corporation*, from the Bishop or Sarum's Power and Jurisdiction. For it appears by the Vicars Charter, which they enjoy from the Crown of *England*, (as the Dean and Chapter do theirs,) that they are only subjected to the correction of Dean and Chapter, not at all to the Bishops, who can neither put in, nor punish, much less put out a Vicar, or a Lay Clerk, however criminal. And accordingly the Vicars, (as well as the Lay Clerks) take an Oath at their Admission of paying Obedience unto the *Dean*, and to the *Dean only* whilst he is present, and in the Dean's Absence to the Deans *Locum-tenens*, authorized under the Seal of the Decanal Office: But none at all to the Bishop, whether Present, or Absent; which was eminently acknowledged by this present Bishop in his own Palace, when in the presence of the Dean and Chapter, and all the Vicars, his Lordship protested three several times to Mr. *Hardwick*, the Vicars Procurator, and Proctor, and to his Brethren then present, *That if it were in his Power, he would expel them every one*, for their then Recalcitration and Opposition, both to the Bishop and to the Chapter, when good Lawyers told the Vicars, they had the Law on their Side. The Vicars were not a little pleased at his Lordship's *Brutum fulmen*, and confession of his *No-Power* over the Vicars within the Close, three times repeated. Nor could any but the Dean bring those Vicars to a Submission and full compliance, which he soon after did with the best effect.

N. 7. Even since my coming to keep my Residence at Sarum, the 20th. of this instant June, I find two *Notorious and Publick Confessions in effect*, of the Lord Bishop of Sarum his having no Power to Visit within the Close, whether the Dean will or no, or without the Dean's Leave, Concurrence, and Consent, under the Seal of his Decanal Office, as well as under his own Hand; which being sought, but refused (very honestly and prudently) by the Dean's Surrogate in his absence, and without his knowledge; the Dean's *Locum-tenens* for the Chapter, (as the Sub-Dean Mr. *Kent* is the Dean's Surrogate for his Court and his peculiar Jurisdiction, wherewith the Chapter hath nothing to do, nor Any mortal Besides the King, and the Arch-Bishop of the Great Province,) did as absurdly, as unfaithfully, clapp the Common Seal of the Dean and Chapter, (of the Dean chiefly as the Head, and of the Chapter as his Members,) by *usurping my Name in it*, and by counterfeiting my Will, against my Will my Interest, my Jurisdiction, without asking my Content or Permission, without so much as saying, *By your Leave Sir*, yea studiously and in haste without my knowledge, even when He and the Rest knew I was but few Miles from them, and even then coming (tho' not yet come) to my House at Sarum. Being come, I soon found *Two Citations* in the Choir, made by a Fiction

of my Name, and of my Name only, beginning Thus, Thomas Pierce *Sanctæ Theol. Professor, Ecclesiæ Cathedralis Sarum Decanus, & Jesu- dem Ecclesiæ Capitulum, Universis & singulis, &c.* Finding This to be done 1. Without my knowledge; and 2. with my very great Abhorrence; 3. Against my Judgement; 4. Against my Right of Jurisdiction; 5. Against the King, of whom I hold my Jurisdiction under the Great Seal of England, (and unto whose Imperial Crown my Jurisdiction is annexed by 32 Acts of Parliament; 6. Against my selfe in mine own name, and poetically brought in upon the stage, Citing my selfe, and the Bishop, as the Prebendary of *Blewbery*, but not as Prebendary of *Pottern*, (which the Bishop is also) Comically personated whether I will or no, like a Puppet moving by Wires; 7. Against Express Statute to the contrary; 8. Against the Oaths of the Members of the Chapter, who had an Hand in the usurpation (which I am sure but few had;) 9. Against the Trust reposed in my Deputy; and 10. Against the very License or Constitution, whereby I had enabled him in my Absence to call Chapters for the taking care of God's worship, the keeping of Statutes and Laudable Customs of the Church, as far as they agree with the Word of God, and with the Law of the Land, and for the Correction of the Canons and Members, but so limited, as I have said, not for the using the Common Seal at all, much less at his Pleasure, without my knowledge, and consent, and against my self; I say finding This, and a world of Absurdities (too many and too great to be recounted in this Pintch of Time;) I inferred their Conviction of my sole Right, as Dean, to cite the 52 Prebendaries and all other members who had sworn obedience to me, from their conceiving themselves forced to run so great a Risque, as that of † *Crimen Falsarii*, Rather than set up such a Citation without my Name, or in Any man's Name but Mine; and for their false using the Common Seal of Dean and Chapter, for want of the Decanal-Peculiar-Seal, which Alone had been Authentick. Therefore under my Seal of Office belonging to me, and me only, as an Ordinarie, and Judge, of the King's Ecclesiastical Court within my Peculiar the Close of *Sarum*, and elsewhere, I made my || Protestation against That usurpation of my name declaring it unlawful, Null, and Void, as shall be set forth at Large in the Second part of my Defence, if Occasion shall serve, or Need require.

¶ 6. Having shew'd the Inconsistencies of the Conspiracy with it self, and the monstrous Absurdity of a Bishop's taking upon him a *Regal Power*, or at least an *Archiepiscopal*, whereby to visit the Dean of *Sarum* within That Close which is the *Peculiar* of the Dean, not of the Bishop, and whereof not the Bishop, but the Dean is the *Sole Immediate Ordinary*, and wherein the Dean has the whole Ecclesiastical Jurisdiction, the Bishop none, and where the Dean's Jurisdiction which was derived from the Crown is united thereunto by Acts of Parliament, which the said Composition does grossly violate: I come to shew in the last place, that 'tis against the *Well-being*, if not against the *very Being* of the whole College within the Close and the Church of *Sarum*, by reason of its most scandalous and most mischievous Effects.

N. r. First the Statutes which have been made by Deans and Chapters without the Bishops, and others made by several Bishops with the Permission or Consent of Deans and Chapters, being no way obliging beyond the Time of the Contrivers, (nor even *Then* but by our Monarchs having

• St. f. 44. b.

† D. D. Long-
land.
Harwards Acts.
p. 61. 125.

Dated Jun. 20.
1683.


having no notice of them,) succeeding *Setts of Legislators*, as good as Those who went before them, and as destitute of Authority to take upon them a *Legislation*, made other Statutes at their Pleasure, as inconsistent with the former as Light with *Darkness*. Inasmuch that they who *swear to keep the Statutes*, as they are now, (without any distinction of Good or Evil, Valid or Invalid, Loyal or Disloyal, Protestant or Popish, made by Sovereigns or by Subjects without Commission, Obsolete or in use,) do take an Oath they will be perjur'd, so far forth as they are not saved by a *Quatenus conveniunt cum verbo Dei & cum Statutis hujus Regni*; which is a *necessary* help, but *not sufficient*, because there is not added to it another *Quatenus* or *Quousque conveniunt Statuta inter se, & sibi invicem non repugnant*. For standing All as they do, partly *lawful* but *laid aside*, partly *unlawful* but yet *observed* and *in use*, and flatly repugnant to one another, (as shall be demonstrated by and by) it plainly follow's that for a man of the Church of *Sarum* to *keep one Statute*, is *ipso facto* to *break and violate another*.

N. 2. Before I come to prove This, by descending to some Particulars, I think it useful to premise this General Observation, to wit, that the Statutes which are Authentic, both by Law, and in themselves, as having been made by our Founders, the *King and Osmund*, and by our Later Monarchs of *England*, H. 8. Ed. 6. and Q. Eliz. which alone are obliging both to the Bishop, Dean and Chapter, are of All other Statutes the *most neglected and out of Use*, (to say no more at this time) whilst the Statutes of several Popes, and of several Popish Bishops and Deans and Chapters of *Sarum*, however selfish, and presumptuous, against the Law of the Land, and the Canons of the Church, and very oppressive to Posterity, and therefore fit to have perished with Those that made them, have been hitherto *observed* (to the hazarding of Souls) with too much strictness.

N. 3. Now to demonstrate the Contradictions, and other Mischievous effects, which have been principally caused by the Infamous *Composition* of the said Boniface the Ninth, with the then Bishop, Dean and Chapter (Birds of a Feather every one at that Time, during the loose and weak Reign of most careless R. 2. of whom Historians give This Character, That of All Counsellors and Councils he did constantly take the Worst,) I cannot better begin than with the Words of Bishop *Hinchin*, once the *Chantor*, and a *Residentiary*, and after Bishop of *Sarum*, and at last Bishop of *London*; when being consulted by Dean *Brideoak* about the compelling of certain *Prebendaries* at large to confirm their Leases by the Common Seal of the Dean and Chapter, and also to pay the *Fifth part* of their *Prebends* for their Non-residence *Thirteen Weeks* in the Year, according to *Osmund's* Constitution, and the Statute of Bishop *Jewel* with the concurrence and combination of the then Dean and Chapter, sent his * Answer in these Words following. "You must also understand, that the great *Vicissitudes and Changes* which Those † *Princes* applied themselves unto, did require *Rules and Statutes* fitted to the disturbed Condition of Church Affairs Then. And you may observe in your Books, that *Continual Controversies* did arise, partly because they did *injoyn Things Contrary* to each other, and partly because they were adapted to *Those Times only*, and were not practicable in after times. I will give an Instance. Do you think that now a *Prebendary not admitted into Residence* may be mulcted at

* From London House, May 7. 1668.

† H. 8. Ed. 6. and Q. Eliz. Of whose *Visitations* the Bishop had written a little before.

 Subandi Resi-
dentiâ.

"*Quinta pars Præbendæ* because he doth not Reside in the Close of Salis-
bury Thirteen Weeks in every Year? Yet this is the Statute of Bishop
Jewel. *Rogatu Fratrum nostrorum cum consensu Capituli* (the Dean
was absent) *Statuimus veterem Antecessoris nostri Osmundi Constitutio-*
nem quam de cā retulit, in integrum esse restituendam; hoc est Canonicos
huius Ecclesiæ nostræ Omnes & Singulos, nisi juxta formam Veterum
Statutorum, adsint & resideant, Quinta parte Præbendæ suæ mulctandos
esse; Pecuniam autem omnem ita collectam ad Fabricam Ecclesiæ no-
stræ Cathedralis conferri volumus. What think you? Can a Preben-
dary not Residentiary, be compelled now so to Reside? Indeed he that
lives upon his own Land, or Farm, and not in his Parsonage with Cure;
nor where his Residence is by Law allowed, is a great Offender. But
if an Archdeacon or Prebendary take upon him to Reside in *Surum* (be-
ing no Residentiary) he is liable to a Sore Mulct upon an Information
in the Exchequer. Will you admit every one into Residence that
shall offer himself, and protest *de Residendo*? You will soon be wea-
ry of that. Or will you tax a man at *Quinta pars Præbendæ*, be-
cause he doth not Reside, and yet you will not admit him to Reside?
Thus far Bishop Hinchman exposed these Statutes to ridicule, by which
All the Canons (in number 52) are obliged to Residence, yet not al-
lowed to Reside. Have a Right to to be Residents, yet no permission
to enjoy it. 'Tis their Duty and their Crime, to Reside in the Close
and the Cathedral Thirteen weeks every Year. They must, and yet
they may not perform the Will of the Founder, confessed by Bishop
Jewel to be expressly the Subordinate Founder's Will, and by conse-
quence the Will of the Sovereign Founders, W. 1. and W. 2. whose
Seals were set to Osmund's Charter. Men are punishable for That, for
which they ought to be rewarded. Not permitted to keep a Resi-
dence, to which by Statute they are compelled, and compelled to pay
money for Not doing That which they must not do. The work is in-
cumbent on 52 Canons or Prebendaries; but Six of their Number in-
gross the Wages unto themselves. This Absurdity is so great, that
hardly any can be greater, unless it be That which follows. For

N. 4. In a flat contradiction to the Fundamental Statute, and Oath of
Residence, and to the late repeated Statute of Bishop Jewel with the
then Chapter, the present Bishop and the then Chapter made a New
Statute (Octob. 3. 1672. *Seibi Anno sexto*) to this effect, That if they
who have taken the Oath of continual Residence, keep not so much as
Three Months Residence, they shall pay Five Pounds for each Months
Non-Residence, or 15 l. for the Non-Residence of the Year: so that for
15 l. per annum they may be Residents good enough without Residing,
and save 100 l. per annum (which any mans Residence will cost him,)
by paying only Fifteen Pounds. So as the Residentiaries are tempted,
(not to keep, but) to violate their Oath of Residence, (if such a Titu-
lary Statute can have any force in it,) by Compounding or Commuting
for breach of Oath, the Price of which Sin is but Fifteen Pounds. I
do not know if Men are Taxed for the Sins by them committed at so
favourable a Rate in the Court of Rome. Now considering, that the
Residents were shrunk and reduced long before, from 52 or 53, (for the
Prebendary of Pottern was * bound to Residence at first,) to the Dean
and 12, and after that to the Dean and 6, and now at last by this last
Statute (so called) to None at all, if each of the Residents will redeem
himself

* Per Stat. De-
cani Richardi
& Capituli, à
Rogero de Mor-
tival Episcopo
confirmati.
E. 14.

himself from that Duty, or buy out his Residence for the said Sum of 15 *l.* (as some have done, and all may do,) here seems to be a way made to the very *Dissolution of the whole College*, if not in Time of the whole *Cathedral Church of Sarum*, notwithstanding his Majesties Ecclesiastical Laws, which do oblige unto the Residence of 90 Days, or 3 Months. And all Local Statutes have a *Nullity* in the making, which are repugnant to the † Prerogative of the King, to the Law or the Land, or the Word of God.

† *Modò Verbo Dei, aut Prærogative Regiæ, g. e. non repugnant. Can. 42.*

N. 5. Another Statute has been made since his Majesties Restauration, enjoinning Prebendaries to bring their Leases to be *Confirmed* by the Common Seal of the Dean and Chapter, to which they cannot be compelled, unless by the King, or an Act of Parliament. Of which the aforesaid Bishop *Hinchman* in his Letter to the said Dean, did write these words:—[*And I must add, That since Prebendaries and their Tenants have understood, that Leases Demised by Sole Corporations (according to the Statutes of the Realm) receive no strength by Capitular Confirmation, you shall do well to perswade and invite the Members of your Church to observe the good Rules lately made concerning Leases; but be not hasty to compel by Censures or Penalties, &c.*—A little after, touching the Statute enjoinning Prebendal Contributions, by way of Tax towards the Repairing of the Church, the Reverend Bishop adds thus,—*Take the best and surest course you can to have the Help of the Prebendaries; but take heed you adventure not to compel them, lest you meet with Consequences which may to a good degree frustrate a Work of so high Importance.*]

N. 6. All the Oaths which have been *Administred*, much more those which have been *imposed*, by Bishop, Dean and Chapter, upon Prebendaries or Vicars, in any matter not belonging to their Spiritual Jurisdictions, or not in a way of Administring Justice, have been *against Law*, and the *King's Prerogative*. The power to give and impose Oaths being so peculiar to the Prerogative Royal, that 'tis punishable to do it, *without, or beyond* the bounds of the Kings Commission, by way of Indictment or Information, as an high Misdemeanor: Nor can any Custom legitimate such an invented Oath, unless it had a *lawful and just* beginning. The House of Commons are so sensible of the want of this Power, not only to *impose*, but *administer* Oaths to Witnesses, (who, being *voluntary*, are as ready to Swear, as to appear,) that they often accept of Evidence upon bare Averments. Nor can the Voluntary *Submission* of the Prebendaries or Vicars create a lawful Power in the Bishop, Dean and Chapter conjoyned, which otherwise by Law they have not, either to *impose* or to *administer* an Oath, nor excuse them in so doing. For however such Oaths so administred and taken, not to lett a Lease upon such or such Terms as the Law allows, (as for Example for Three Lives without Licence,) do bind the Takers of them in *Conscience*, yet in *Law* they are illegal, null, and void. And so 'twas declared by the late Lord Chancellor upon occasion of a Suit in that Court depending.

N. 7. By a Statute or a Decree of the Bishop, Dean and Chapter of *Sarum*, made in *Octob. 1671.* no Lease is to be Lett by any Prebendary (however he is singly a Corporation,) *without three Conditions*, (by Law allowed, but prohibited by them,) and all Three under the pain of *Excommunication*; which yet ('tis well known) cannot lawfully

be inflicted for any matter or crime which is not made to be *so punishable* by some Statute of the Land : Nor can any thing less than the King or Parliament *de novo* create, or make a thing criminal. And though the breach of such Conditions in the letting or a Lease (which Conditions are wholsom) be supposed to be a Crime; in such as have consented to them, yet the *Matter being Temporal*, it is not punishable in Law by an *Excommunication*. Yet this is another of the sore Mischiefs, whereof the aforesaid *Composition* hath been the Occasion of the Cause.

N.8. But there are other effects of it, whereby *Simony* seems plainly not only to be *allowed*, but even *established* by a *Law*, (such as a Bishop and the Chapter can make *de facto* by the aforesaid *Composition*, which owes its chief force to Pope *Boniface the Ninth*;) whilst men are made to pay dearly for their Places of preferment, which by the King are freely granted. For no sooner have the Residents in the Church of *Sarum* taken their Oaths, That they neither have given, nor will give any Sum or Sums for those Places unto which they are admitted; but presently, by the * *Statute of Pope Eugenius the Fourth*, even after he was deposed by the Council of *Basil* (when for Money he would do any thing,) there is (besides all other payments by way of customary Fees) a great Fine for *Entrance*, *Finis pro Introitu*, to be paid in ready Money, or well secured by Obligation. And though at first no more was paid than *Forty shillings* to the Fabric, (*A.D.* 1319.) yet by the Statute of *Dean Sydenham*, and his then Chapter, (1428.) Authorized at *Florence* by the said Titular Pope, (1442.) each Resident *with Dignity* is to pay for his Entrance 105 *l.* and each *without Dignity* is to pay for the same 71 *l.* 13 *s.* 4 *d.* (besides a greater Sum required by a much younger Statute, of which hereafter.) This *Statute* is bad enough; but the *Custom* is worse; For besides that the Fines for Entrance are *diverted* from the *Fabric*, and *divided* among the *Residents of the Chapter*; the *Custom* hath violated the Statute, in exacting no more from men *with Dignity*, than *without* it; so that the latter pay *too much* (though less than the Statute does require,) and the former *too little*, because much less than is due by Statute, which yet they pretend (and that with Contention) to be in force. Only the Dean of all four Dignities must be excepted, who pays by Custom to the height of what the Statute does enjoin, and by Custom much more. Nor is this all: For Tyrant Custom which keeps up that Statute, does beat it down at the same time in five remarkable degrees, for which no Creature was ever yet able to give a Reason. Yet these are Customs and Statutes, which they who take to be Obliging do Swear to keep. But as if this were not enough, for a Learned poor man to be beggar'd by in his Advancement, (as how many the most deserving have the least Portion of Money, and none to spare, and often dye without Imbursement?) there was another Statute made by a *Bishop*, *Dean* and *Chapter*, as well without the *Kings* as the *Popes* concurrence, and without the concurrence of *Common Sense*: For by force of that Statute (another effect of the *Composition*) every Resident who is living, must fast a Year from all Commons; and every Resident when he is dead, must eat a Years Commons in his Grave. At least in *Aristotle's* sense, τὰ διὰ τῆς φιλαρίδις ἡμεῖς πῶς ἐστὶ for what he does by his Executor, he interpretatively does; and accordingly 'tis said (with as much Pithiness, as Impropriety,) to

* De finibus
Canonicorum
ad Residentiam
Receptorum.
St. l. 38, 59.

to be the Dead Resident his *Annus post Mortem*; that is, his *Unius anni proficua undecunque Provenientia*. 'Twas not the Christian Self-denial of those Ullurping Legislators, who first invented this Law in their own behalf. A Law resented very deeply by some Publick-spirited Bishops of other Churches, who have expressed their Resentments to the now Dean of *Sarum*, with a great deal of holy Indignation; and heartily wished for a Remedy of this and other Impositions.

N. 9. But hardly can a Remedy be brought about, but by the long and mighty Arm of Sacred Majesty, which in a Royal Visitation can abolish Old Statutes, and make us New Ones. Statutes suitable to our Religion, by Law established. Statutes not repugnant to the King's Honour and Prerogative. Statutes agreeable with themselves, and to be sworn to the safety of all mens Consciences and Souls. Lastly, Statutes not expiring with the Breath of them that make them, like those Royal Statutes which were made heretofore for the Church of *Sarum*: For those of *Ed. 6.* and *Q. Eliz.* were never yet so much as entered into the Statute Book; insomuch that the former and present Dean could never get a sight of them. And those of King *H. 8.* by one of his Masters of Requests, Sir John Tregonwell, (Commission'd under the Great Seal of *England*;) were only enter'd like an Old Almanac, and stand as a Monument of Contempt, which for many years past have been put upon them; no more regarded than the *Great Charter* both of the Sovereign and Subordinate Founders. Notwithstanding our Monarchs are declared by Acts of Parliament to have all such Jurisdictions, Privileges, Superiorities, and Preeminences Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical Power or Authority hath heretofore been, &c. And have full Power by Law to Commission whom they please, and for so long time as they please, to Visit, Reform, Redress, Order, Correct, and Amend whatsoever is amiss in any Ecclesiastical state or Persons, and over All to exercise all manner of Jurisdictions, Privileges, and Preeminences, which by any manner of Spiritual or Ecclesiastical Power, Authority, or Jurisdiction, can or may lawfully be Reformed, Redressed, Corrected, Restrained, or Amended. Which Right and Power being united and annexed to the Imperial Crown of this Realm, and that for ever, may be extended unto the Visiting even the Visitors themselves, (and that with an endless Visitation, and by any mean Subject commission'd under the Great Seal of *England*;) especially such as take upon them to Visit the Ordinaries themselves, and that within the Jurisdictions which are exempt and peculiar to them, which none can Visit by Law in a Protestant Kingdom, who is not a King, or a Metropolitan.

This is a short account of the Statute at large 1 Eliz. c. 1. §. 17. & 18. compared with 25 H. 8. c. 19. & 26 H. 8. c. 1.

N. 10. Now because the Dean of *Sarum*'s Ecclesiastical Court and Jurisdiction, over the Close of New *Sarum* and the Liberties thereof, and elsewhere in four Counties, is for ever united and annexed to the Imperial Crown of this Realm, even as firmly and as fully, as the Courts and Jurisdictions of any Bishops, (those of *Sarum*, *Exeter*, and *Bristol* in particular;) it concerns the Bishop of *Sarum*, as much as all he hath in the World is worth, not to usurp the King's Authority, nor to invade the Metropolitan's Right, by invading the Dean's; nor to attempt a New Dominion (from Pope *Boniface the Ninth*) without a new Act of Parliament, which none were ever yet able (in almost 600 years) to prevail with any King, or any Parliament to endure.

N. 11. Upon

N. 11. Upon the whole matter, All the Premises being consider'd, there can be nothing more desirable, if 'tis not absolutely necessary, than that His MAJESTY now in being will be graciously pleased with the Assistance and Advice of the Archbishop of the Province, (if His Majesty thinks fit) to make and Authenticate such a Body of Statutes for His Majesties Free Chapel and Cathedral Church of *Sarum*, as King *CHARLES* the First, of Glorious Memory, did make and constitute for the Cathedral Church of *Canterbury*, with the Assistance and Advice of Archbishop *Laud*. The Church of *Sarum* having as much, if not a much greater need. For

* Stat. f. 62, 63.
bought at Rome
of P. Boniface
the IXth, 1392.
and Stat. f. 59,
60. bought of
a Pope and no
Pope, Eugenius
the IVth, 1442.
† See §. 1.
* §. 2.
† §. 6. n. 3.

* E.g. those of
H. 8. Stat. fo. 72,
73, 74. which
compare with
f. 12 & 13. and
with that made
lately, An. Dom.
1672.

The Statutes there at present are partly * Popish; partly Injurious to † the King's Prerogative and Supremacy; partly inconsistent with the * Laws of the Land; and common Honesty; partly Repugnant to one † another, and so a snare to their Souls who are Sworn to keep them; partly impertinent and impracticable, as the state of the Church now stands; partly impossible to be observed, without a very great detriment to the Service of God, and the credit of the Choir, or else without a most grievous and most scandalous Violation of the Kings Ecclesiastical Laws, to wit, the Canons of the Church. Besides that such as they, they are Tumultuary, and Immethodical; according to the different Times wherein, the different Occasions whereupon, and the different Authorities whereby they were made. * Some are antiquated and grown out of use, by the Deans and Chapters ceasing to live together, as in a College, to eat and drink together upon the Common Revenue, in one common Refectory, or Hall, (as in *Oxford* and *Cambridge* those of Colleges do still,) and by converting Meat and Drink into Money, whereof all have their Proportions, and wherewith they keep their Families apart. The like Change is made in the Corporations of Vicars Choral. All occasioned (as I suppose) by Marriage permitted to the Clergy. None of our Statutes can be obliging to any beyond the Contriver's Time; unless as made or confirmed by the Law of the Land, or the Kings of *England*. But our Royal Statutes, which alone are Authentic, are most despised, as hath been shew'd.

N. 12. Without a Body of Authentic and Reasonable Statutes, such as may be agreeable to the Word of God, the King's Right of Prerogative, the Law of the Land, the Church of *England* as it is by Law Established, and our present Metropolitans Provincial Letter, Aug. 23. 1678, (the Vindication of which hath cost the present Dean great Pains and Trouble, to say no more,) it will be hard, if not impossible, to break the old Popish Custom of thrusting the most unqualified and most scandalous Singing-men, (not so much into Holy, as) unholy Orders, because unlawfully conferred, and sacrilegiously received. The mischievous consequences of which are too many and too great, within these last Twenty years, to be expressed without a Volume. Whereas our Two Universities can furnish us with Men of very good Learning and Degrees, who have much better Voices and greater Skill in Music, than our Illiterate and Ungraduated Songsters. And it is but too evident, how sadly the Church is overstock'd with men of Learning and Degrees; the Universities sending out yearly many more of such Men, than the Church hath Employments, (I do not say Preferments) to entertain.

N. 13. We

N.13. We need say no worse of the *Composition*, made on purpose to overthrow the Fundamental Charter and Statute, than what was said by *Paolo Sarpi* of the *Concordat*, purposely made by *Leo the Tenth* to overthrow the *Pragmatic Sanction*. If the Bishop of *Sarum* had no Jurisdiction within the Close, *without*, or *before* that *Composition*, why was it not *Invented* almost 300 years sooner? And if he had it from from the *Foundation*, or at any time after, *before* and *without* that *Composition*, to what purpose was the *Invention*? and why was it ever made at all? and why with a *Salvo* to the *Dean's Right*, whereof it is a *Violation*? And why with no *Salvo* to the King's Right, to which it is an *Opposition*? and why with a *Non obstante Statuto & Chartâ Prædictâ*? These were evident *Confessions*, that what it sought to *legitimate*, was *illegitimate* till then, and utterly *unlawful* for almost 300 Years. Lastly, Why was it called a *Composition*, or a *Compromise*, a *Concord* made between Parties *Litigant*? A Superior having a *clear Right* of Jurisdiction, treats his *Inferiors* as a *Judge*, by *executing Law*; not as a *Party*; *Compounding* for a Law, and a Jurisdiction, which before he had not. The very word *Composition* confesseth *Novelty*, and *Guilt*, and *Usurpation*; from which, according to his Oath, his bounden Duty, and Allegiance, *appellat Casarem Decanus*; in imitation of *St. Paul*, and a Case like *his*, The Dean appealeth unto *Caesar*; and immediately after *Caesar*, to the *Archbishop* of the *Province*, whose *Metropolitica* Prerogative and Jurisdiction, as well as that of the † King himself, the Bishop of *Sarum* (whilst I am writing) is *Now* presuming to *Usurp*; which I can prove he does *wilfully*, and *against* his own *Light*, because he *knows* he hath *earnestly*, and to my Face, *disclaimed* all *Pretences* of Jurisdiction in the *Close*, and cast it wholly upon *Me*, as on the * *Ordinary* of it, (and as having within it *solely* the *Ecclesiastical Jurisdiction*,) when he *refused* *perseveringly* to punish a *Fornication* committed in *his own Palace*, the *Correction* of which I sought to cast upon his Lordship. His Lordship *knows* the *Determination* of my Lord Chancellor *Hyde* Earl of *Clarendon*, and of *Archbishop Sheldon* for *Dean Bailly*, *against* the then Lord Bishop of *Sarum*. He *knows* that none but the *Deans Court* could ever *Try* or *Condemn* any *One* Person within the *Close*, in any *one* Case or Cause of *Ecclesiastical cognizance*. He *knows*, † an *Oath of Obedience* to the *Dean* is ever *Sworn*, and to be *Sworn*, by every *Prebendary* or *Canon* at his *Admission*; and this according to the *Statute*, (not only of the *King* and *Bishop Osmund*, but) even of *Bishop* (a) *Roger* Himself. But no such *Oath* unto the *Bishop* (throughout the whole *Statute-Book*) is to be taken by any *Member* of our *Cathedral*. His Lordship *knows*, that *All* are liable to the *Corrections* (b) of the *Dean* within the *Church*, but not *One* unto the *Bishop*. *Decanus omnibus Canonis & Vicariis præest, quoad Regimen Animarum, & Correctionem Morum*. His Lordship *knows*, that at *Morning* and *Evening Prayers*, after the *Tiling* of the *Bell*, no (c) Person is to be *staid* for, (*ne Episcopus quidem Ipse*) except the *Dean*. His Lordship *knows*, in defect of *Residence*, the *Canons* were to be *Mulct* or *Fined* (d) *secundum Consilium Decani*, (not *Episcopi*;) and that by a *Statute* which was confirmed ('tis an *Argument ad Hominem*) *Autoritate Apostolicâ*. His Lordship *knows*, that the *Dean* (as (e) *Petrus de Subaudiâ*) made *Statutes* of himself, approved of, and ratified, by the *Bishop* and the *Chapter* *ex prate Pôst*.

† Nullus alius præter Regem potest habere jurisdictionem Episcopalem, demandare Inquisitionem. A Maxim somewhere in my Lord Coke.
* St. fol. 21. a. & fol. 86. b. Rog. St. de Test. Dec. insinuantis.

† St. de Admissione & Residentiâ Canoniorum. c. 2.
(a) Stat. Com. f. 9. b.

(b) V. Chart. Osmundi ubi supra.

(c) Fol. 12. b.

(d) Fol. 13. a.

(e) Fol. 8. b. f. 12. fol. 21. a. & b. & fol. 25. b. & alibi passim.

L

But

But *never* any Bishop *presumed* to make any Statute, without the *Concurrence* of Dean and Chapter. His Lordship *knows*, the Dean's Power (*f*) to *give* leave of Absence, or to *deny* it, without the least notice ever taken of the Bishop. His Lordship *knows*, or *should* know, that the Dean was acknowledged by Bishop (*g*) *Jewel*, to be *Totius Collegii Pater, & Sanctæ Societatis vinculum*; that the *Dean*, (not the Bishop) has Power by Statute, to admit the Clergy of the Church of the higher and lower Degree, to *Possession* and *Commons*, (*h*) *suo Jure*, in one place, and (in another) *suâ solâ Autoritate*; and to receive (*k*) an ounce of Gold from every Canon whom he *Installs*, though now 'tis dwindled into a *Mark*; and to challenge for Himself and his Retinue (*l*), *de Jure & Dignitate suâ*, from every Prebendary or Canon, by whose *Corps* he shall pass in any Journey, one days *plentiful Entertainment*, with a *lancè percipiet, & ad Libitum*. Briefly, Our Statutes give *more* respect unto the *Dean*, than the Dean can *desire*, or *look for*; and such as I am loath to mention. But it (*m*) appears by the Old Statute-Book, lent by Dean *Brideoak* to the present Lord Bishop, *July 10. 1672*, by *whom it is not yet restored*, as *D. Brideoak* left it under his hand, when he went hence to the See of *Chichester*. *That*, and Bishop *Poor's Register* are to this day *concealed* from me.

I will Conclude with this one signal Observation, That of *All* the Monarchs of *England*, who have *deprived* the Bishops of *Sarum* of *many* Jewels in their Mitres; not *any One* of them ever took any thing from the Deans, because *Originally* the Deans of their Royal Chapel, and *Virtualiter* ever since.

(f) Vet. Regist. f. 3. & Antiqu. St. p. 89. & Franſc. D. Bridges, p. 175.
 (g) Stat. de Mænis Clausi re-parand. mibi, p. 60.
 (h) Reg. Bridg. 172.
 (k) Ibid. p. 175. & in Cod. Originali f. 3. St. Rog. f. p. b. 1319.
 (l) St. Com. f. 47. a. Lib. St. Nigr. p. 93.
 (m) Pag. 89.

An Appendix

TO THE

PREMISES.

SHewing the Dean of *Sarum's* Innocence (if not his Merit) in his *Services* for the King, by the Lords Commissioners special Order; and in his *Obedience* to their Lordships express Command; and also in his perfect Ignorance of Mr. *Teats* his Address to the said great Lords with his Four Heads of Information, until the Lord Bishop and the Chapter of *Sarum*, gave the Dean his First knowledge and notice of it. So that the Controversie, ensuing it, might possibly have been Raised by the said Bishop and his Adherents, Before it was so much as possible to have been Raised by the Dean, without his knowing anything of it, till so informed. But seeing All men are subject to be Mistaken and Abused by men of Malice; it is the honour and the duty of All the Dean of *Sarum's* Friends (in the number of whom I profess my self) to convert, or to shame those Fanatical Enemies to the Government, who do pretend to suspect him, though indeed they do not, and cannot suspect him in Reality, of having dealt underhand in the Design of Mr *Teats*, or of having acted otherwise towards any the least Occasion of any Controversie or Difference with any Creature, antecedently to the Command of the Lords Commissioners; the Evidence of the contrary is so manifold and convincing. But yet they hitherto Resolve to pretend suspicion, (when they have None) whereby to justify, or excuse, their Diabolical Defamation of an innocent Man. (If yet it is a Defamation or a Crime, to prompt a Pious and Learned Person to serve his Sovereign as he is able.) The Real cause of their Malignity, being too Criminal to be own'd; to wit, the Dean of *Sarum's* Loyalty, and Love of Truth, and Compliance with the Commands of the most Noble Lords Commissioners, who are impowered by the King to command us All. This alone is the True Ground of some mens Pretending to a Supicion, whereby to revenge themselves on the said Dean, for having dared to be Dutiful to his Superiours. These Artificers and *Inventors of Evil Things not at all having either the Grace, or even Humanity to consider, that They Themselves must have obeyed, (as ill-affected as they are to Any Commissioned by the King,) had they been so commanded, as the Dean of *Sarum* was. But I will no longer detain the Reader (in this Preface to an Appendix) from Mr. *Teat's* his own Letters, sent to several Persons of Honour, and to some others of lesser Quality, strongly asserting unto Himself the whole Design of the Four Heads, which he addressed to the Lords Commissioners; and confuting those Malignants, who out of Envy to his Performance, would have him taken (to his Disparagement) for Another man's Tool. Nothing is added to the said Letters, besides a few Deductions Thence, and some Reflections thereupon.

* Ερδιστην
μακρ.
Rom. 1. 30.

An APPENDIX to the Three foregoing Chapters.

§. 1. **M**r. Teats was so unwilling, that either the Dean of Sarum, or any other of that Church, should have any share with him in the Honour or in the Blame of his Project of the Four Articles, that he writ an honest Letter to a Person of Quality in the Countrey, (as before to some at Court, and to the Lord Bishop himself) who permitted the Dean's Son to transcribe as much of it, as he thought would conduce to his Father's Service and Satisfaction: And 'tis as follow's.

[I am heartily sorry that any should be so Atheistical, as still to suspect the Dean's privacy to my design, after so much evidence and conviction to the contrary; and therefore to shame them, I am ready to undergo whatever Test shall be put upon me, to declare that the Dean was neither directly nor indirectly, nec per se, nec per alium, acquainted with my design; but every way as ignorant thereof, as the Child unborn; and much less abetting me therein, than the Bishop himself from whom I had indeed two Inducements, but from the Dean none, nay less than none; this being the only way I had to incur the Dean's Displeasure, but withall to procure a Favour from the Bishop, or at least from the King himself. The only offence that I can charge my self herein to be guilty of, and for which I do, and must ever beg the Pardon of Mr. Dean, is not only that I drew up those Articles without his Privacy, or Assistance, but also without his knowledge or consent, referr'd my self for Proof of them to Books and Papers in his Hands. Truth is, the knowledge I had of the chief things suggested by me to the Lords Commissioners, was principally from a Sheet of Reasons whereof Copies had been dispers'd into several mens-hands, as well of both Houses of Parliament, as private Persons, One of which Copies I have here with me, pen'd by the Dean about Six Years since, which Sheet was Entitled, — Certain Memoirs of things pleadable against a Bill then prepared for the taking away of all Peculiar Jurisdictions, &c. where-in among others, I found this very observable Passage.]

*Note that this was an error in those Memoirs. For the Dean was Alone before the Conquest, and some while After, without any Chapter, as now the Dean of the King's Chappel at White-Hall.
*N. B. He consulted with others, though not with the Dean.

The Dean and *Canons of Sarum had their abode before the Conquest in Old Castle called Caesar's-Burg, and corruptly Swisberg, by the Britains, Sorbiodunum. It was at the first the King's Free Chappel, as Windsor is at this day, wherein the Dean (under the King) had more than Episcopal Jurisdiction. V. *Vetus Registr. Miscell. & Registr. Dom. Richardi Episc. Sarum.*

['Twas from this, and certain other Passages there following, (seconded by what I heard from some * Persons better known, as I thought, in the Affairs and Records of that Church, than I can be supposed to be,) that I thought I had reason enough humbly to tender those Four things to be inquired into by their Lordships. But for the Reverend Dean of Sarum, he had no manner of knowledge of my Design, or of my Two Inducements to it, nor of the Petition of the Mayor and Magistrates of Marlborough, nor of those Noble Persons who did promote it; and therefore as I have highly though undesignedly disoblighd him, by acting as I did, without his Privacy, and (as I found since) against his Will; so I have, and do, and ever will beg his Pardon; which whether I ever obtain, or not, I will be ever his Vindicator in the bottom of

of my Heart, from his having had the least share, or so much as knowledge of my Rashness and Precipitancy.]

§. 2. Thus far Mr. *Teats* word for word; and as truly as ever any man spake: He offer'd also to confirm it in open Court upon Oath, which makes me say, that those men are unworthy, and must not expect to be beleived upon their Oaths, much less upon their Words, who will not beleive the Dean of *Sarum*, and Mr. *Cornelius Teats* of *Marlbrough* either upon their Words, or upon their Oaths. Mr. *Teats* his Character is no where fitter to be seen, than in the famous Petition of the Mayor and Magistrates of *Marlbrough* to the King, Presented by the hands of the Lord *Bruce* in his behalf, whose great Parts and greater Piety are celebrated by Them, (both to the King, and the Lords Commissioners,) who have the best experience and knowledge of him. And not yet to mention those Horrid and Scandalous Reports, which Mr. *Teats* his bitter Enemies have laboured under, and still do labour.

There are not any either of his or of the Dean of *Sarum*'s Enemies, who can prove so convincingly that they had not any hand in, or Assent to, or Connivance at, or Knowledge of, the most execrable Murder of Sir *Edmunbury Godfry*, (until they had it by report,) as the said Dean hath proved, and can prove, that he had no hand in, or Assent to, or Connivance at, or Knowledge of, Mr. *Teats* his Project of the Four Articles, until he was informed of it by the Lord Bishop of *Sarum*, and by the Chapter of the same, in a Letter from Mr. *Frome*. For Sir *Edm. Godfry* being dead, can attest nothing on their behalf; and they have nothing but their own Oaths whereby to clear their own Innocence, to which they have forfeited all Belief with considering men. But Mr. *Teats* is still living to clear the Dean of *Sarum* upon his Oath, the which he offered in open Court, and will be ever ready to take, and who will ever find Belief from All who are acquainted with his unblamable Conversation, which will every where have credit, where his Enemies have None. Nor hath he, or the Dean of *Sarum* any Enemies they know of, who are not Enemies at the same time, both to God, and the King, and the Church of *England*. 'Tis the Nature of Christian Charity, not to suspect others hastily, of any ill thing which It abhors; whilst they who are wont to do Injuries, suspect others of the like. Nothing hitherto can be said to clear the Regular and Episcopal Clergy from a suspicion of being Papists, or popishly affected, with the whole Dissenting and Schismatical Party; and they who suspected, or rather pretended to suspect the Dean of *Sarum* of a Plot to deprive the Bishop of a Right to give Prebends, even immediately after the Bishop had promised a Prebend to the Dean's Son, (of his own accord, and undesired, which added most of all to the Obligation,) are like those most Malitious, and Unexcusable Fanaticks, who pretended to suspect the King himself, not only of contriving the Fire of *London*, But also of being in the Plot against his own Life and Kingdom. See the excellent Address to all the Freeholders and Freemen of *England*; part. 1. p. 45, and 50. and part. 2. p. 2, 3, 5, 6.

§.3. But now suppose the Dean of *Sarum* had not only permitted, but perswaded Mr. *Teats* and the Magistrates of *Marlborough*, to apply themselves unto the King for a Prebend of *Sarum*, and to plead, that the Supremacy of Right to give Prebends is in the King, from whose Original Right, the Bishops Right to give them is but derivative, (and therefore only a good and undoubted Right, because derived from the Crown,) he had not abjur'd the doing of it, but rather had own'd it with Ambition. The only Reason why he denies it, is because it is a Lye; and because he is a lover of Truth and Justice; and because he will not willingly sully the Merit of his Obedience to the very express Commands of the Lords Commissioners; who finding him averse from his being a Voluntier, were therefore pleas'd to press him for his Majesties Service, wherein he had not been else employ'd.

§.4. In compliance with the said Order and peremptory Command of the Lords Commissioners, (to which no Churchman could refuse to pay Obedience,) the Dean of *Sarum* drew up a *Narrative of Matters of Fact*, which he had found in Old Registers; wherein he took occasion to confute Mr. *Teats*, §.9. and to assert the Lord Bishop of *Sarums* Right to dispose of Dignities, Subdignities and Prebends at large, §.10. as well as the Rights of the Dean singly, together with the Rights of Dean and Chapter in conjunction. And all upon the same principle or ground, on which he humbly did conceive the several Rights were all held: He did conceive, that all Rights are either *Subordinate* or *Supream*: He thought it dangerous to assert the Subjects Rights to be *Supream*, and therefore called them *Subordinate*: And lastly, He thought their Rights the *Firmer*, for being derived from, and depending on, and standing upon so *sure a Bottom* as the *Supream*. He shew'd what our Monarchs had done *de facto* in and over the Church of *Sarum*, which was not to reveal a Secret; for some of the several Alienations of several Prebends, and one Archdeaconry from that Church, &c. publickly written in Letters of Gold on the several Stalls, and expos'd to the Reading of all Mankind. But whether such Alienations were, or could be *de jure*, the said Dean left humbly to the Consideration of his Superiors.——

What more or less could have been said to the purpose, by any of the Chapter, or by them All, or by my Lord Bishop himself, if either of them had been so commanded to speak his Knowledge, or his Sense, as the Dean of *Sarum* was, they themselves can best tell; but the Dean of *Sarum* is yet to learn.

§.5. One thing is fit to be consider'd, by those Pretenders to a suspicion of Persons more credible than themselves; which suspicion 'tis thought they have not, and cannot have in good earnest, against the Evidence and Conviction they have several times met with; if at least they have Faith and Charity, and do really believe there is a God, and a Devil, an Heaven and Hell. Suppose that two of their Number shall be pretended to be suspected of two grand Crimes, the one of *Simony*, and the other of *Incest*; and that the Whispers of those Suspicions shall be disseminated and spread into public Fame. Will not those Persons be glad to be allow'd to prove the Negative upon their Oaths? Will they not take it extremely ill, to get no more by their Vindication, than to have the
Fame

Fame of *Perjury*, superadded to the suspicions both of *Simony*, and *Incest*? Will they not expostulate, *si accusasse suffecerit, Quis erit Innocens*? Will they not probably break out into the Learned *Diatribist's* Exclamation, *Ζῶ Πατὴρ αἷς Καθαροὶ πάν ἀπόλοιτο γὰρ*! They cannot hope to be believ'd upon their own single Oaths, who dare pretend not to believe honefter men upon their double ones. Besides that *Simony* and *Incest* will be accounted more scandalous, even by the Whigs in these worst of Times, than to be zealous for the King's Rights, or to obey the Lords Commissioners. And therefore, if the Inventors of silly Jealousies and Lyes, shall at any time chance to suffer the heinous things which they have done, they will learn for the future to deal with their Neighbours and their Friends, as they would that their Enemies should deal with Them.

Part of Mr. *Cornelius Teats* his LETTER to a Person of Great Honour, an Eminent Officer at Court, and afterwards to Another of lesser Quality; giving an Account of his Undertaking, after the Petition of the Mayor and Magistrates of *Marlbrough* to the KING in his behalf.

BESIDES my appearing for the King's Prerogative and Right, which was a principal Motive to this so strange Attempt of mine; I had likewise two other Inducements, which I hope may in some measure take off the blame, and very tolerably account for a Procedure of this Nature.

The One, that the Bishop of Sarum some years since voluntarily promised, and that with repeated Allevations, (I do not say the next Prebend, but) whatever lay in his power to do for me; though being since that time, again and again Requested by me, and by many Others, (not inconsiderable Persons) on my behalf, at what time there were vacant Prebends many in one Year, yet he never did anything towards the Augmentation of my Poor Maintenance: so that indeed I was weary of depending any longer upon Complements.

Next, I did but follow (as I was led, by) the Bishops own Example; for having observed, that his Lordship applyed himself to the King for a Royal Mandate, whereby to over-rule the Dean and Chapter of Sarum to Prælect his Nephew Mr. Seth Ward into the next Place of Residence which should be void, (the only Good Thing which is in the Gift of the Dean and Chapter, when the King does not oppose his Original Right to their Derivative,) I thought I might with greater Reason apply my self (in such a way as I did, viz. by asserting the Kings Original Right,) to obtain from His Majesty a Prebend at large of a lesser Value (not the only Good Thing in the Bishops Gift, by a Derivative Right, whereof the Original is in the King,) because that Nephew had been before provided for by two Uncle-Bishops, with as much as would have served five or six Worthy men, and did not want an Augmentation; as I evidently did; nor was his Task so great, as mine is very well known to have always been; nor did his Uncle want Things in his particular Disposal, as most of my Patrons did, and do; nor had the Bishop more Right Derivative to bestow a Prebend at large, than the Dean and Chapter to bestow the Places of Residence: and his Lordships applying himself to the King for such a Canonry was (according

to the Rules of all the Logic that I ever have been acquainted with) a Confession of his Judgment, that All Promotions in the Cathedral Church of Sarum are in the King by an Original Right, though by a Derivative in the Bishop partly, and partly in the Dean and Chapter; and truly Sir, I had a fairer Opinion of his Lordship than to think he would blame that in me, which he approved of in himself: Nor did I imagine, but that a Poor Vicar might beg what he wanted of his King, as well as a Great and Rich Bishop, who wanted nothing.

Sir, I have here freely and fully discovered the very sense and thoughts of my Heart to you, and do humbly hope, that I may from You at least obtain a merciful and candid Opinion of my Proceedings. But I am afraid I have wearied you with the unusual length of this Letter; I am sure I have wearied myself in writing it, having already preached twice this day, and being also to prepare another Sermon at a Funeral to Morrow Night, which may serve to excuse what slips may have here fallen from my Pen. I hope I shall always deport my self, as becomes him who is

Your most, &c.

Part of Mr. Teats his Letter of Dec. 14. 82. to the Lord Bishop of Sarum, in Vindication of the Dean.

My Lord,

NO Person can be more highly displeas'd with me, than I am with myself, for having (under the impatience of some disappointments) attempted a thing so far above my reach in that Paper deliver'd to the Lords Commissioners; especially since I find, that hereby I have not only provok'd your Lordship, but also my Worthy Patron the Dean of Sarum, (once my Friend, but now I fear made my Enemy,) as being hereby wrongfully drawn under the most unjust Suspicion of his having been privy to my Design: when as the Truth is, (which merely to do him right I think my self bound to declare, and if your Lordship require, I will affirm it upon Oath,) He had no hand in, or knowledge of, those Informations, nor (as I verily do believe) of any my proceedings thereabout, till my Letter to him at Canterbury in Nov. last, which he answer'd with sharp Reproofs, and a declaration of his Absolute Refusal to assist me in any thing, or to deliver what he might know of that matter: so that I was forced (seeing my self Summon'd into your Lordships Consistory) to use my utmost endeavours with all my Friends, to procure a peremptory Command to him from the Lords Commissioners, which I hear is now sent; but with what effect I do not as yet understand; only that it hath brought him to White-Hall. Besides, my Lord, the thing speaks it self. Articles so unskilfully pen'd, and with so many disadvantages to the Cause undertaken, can never be supposed to have been drawn up by his Advice, or so much as Connivance, or Permission, &c.

This is all of that Letter wherein the Dean is concern'd.

F I N I S.

T

T H I N G S
O F
C O N S E Q U E N C E

To be *Added* both for *Proof* and *Confirmation*

T O T H E

Just Vindication

O F T H E

KING's Sovereign Rights, &c.

C. notes the *Chapter*, §. the *Section*, p. the *Page*, l. the *Line*,
where the *Addition* must be inserted.

This to be inserted on the Backside of the Title Page.

*The Sum and Upshot of the Difference between the Bishop and
Dean of Sarum, is briefly This, if there is Any.*

THe Dean is of Opinion, That the King and the Bishop have Both a
Right to give Prebends, with this Distinction :

The King's Right to give them is Original and Supreme ; The Bi-
shops Right to give them is Derivative and Subordinate.

Of this Distinction his Lordship does, or does not allow. If he does,
his Lordship is of the Dean's Mind, and the difference is at an End: If
he does not, the Dean wonders at it ; and the more, because the Great-
est of Lawyers, and the Greatest of Divines do All agree in the said
Distinction.

Which is proved in the First Chapter of the Dean's *Vindication of
the King's Sovereign Rights*. And all besides That, may stand or fall
with That Distinction, or be as if it had never been.

CAp. 1. p. 2. l. 1. of §. 2. After *I had learned*, Add, *Ten Short,*
but pithy Lessons. Ibid. After the last l. add.

7. That our Monarchs have full power by * Law, "*To Com-*" * 1 Eliz. c. 1.
"*mission whom they please, and for what Time they please, (without*" §. 17, 18. 25 H.
"*any (that) to Visit All Cathedral Churches, All Archbishops and Bi-*" 8. c. 19. And
shop," 26 H. 8. c. 1.
A

Additions to the vindication

"shops, and to Reform, Order, Correct, and Amend, whatsoever is amiss in Any of them. Nor only In All, but Over All, to exercise All and All manner of Jurisdictions, &c.

† Regist. Pountney, p. 77.

P. 3. l. 1. after *Bishopricks*, add, (and † *Prebends also*.)

Ibid. l. 9. after *Sarpinus*, add, *And of All the Antients cited by Hospinian de Origine Bonorum Eccles. c. 2. p. 479. Sozom. l. 1. c. 8. l. 2. c. 5. l. 3. c. 12. l. 5. c. 5. § 8. § 16. Item Cod. Theodos. l. 16. & Theodoret. l. 3. c. 12. & Funkius in Comment. in Chron. l. 6. § Mantuan. Pastor. l. 12. & Euseb. in vitâ Constant. l. 2.*

Ibid. In Marg. over against the word *Founder*, add, *Note, That in the first Pentecostal Visitation of Dean Brideoak, our Founders are mentioned in the plural, which must be meant of all our Monarchs, or at least of the King and Osmund. Regist. Shuter & Greenhil, fol. 37.*

Ibid. l. 32. after *Advowers of it*, add, *Sir W. Dugdale in his Monast. Angl. Vol. 3. p. 378. in Cartâ Regis H. 2. hath of the Church of Sarum in particular; Concedo & Confirmo Ecclesiæ Sarum omnia antiqua Tementa sua, quæ habuit ex Dono Regis Willielmi, & Osmundi Episcopi sc. Ecclesiam de Berâ cum pertinent. Ecclesiam S. Georgii in Dorcestriâ. De Farendon. De Caln. De Wurdhâ. De Merlebergâ. De Bleberiâ. De Wellington. De Graham, &c. Et Omnes illas Prebendas quas fecit Osmundus Concessu Regis Willielmi de Dominio suo, tam in Ecclesiis quàm in Terris, sicut Carta quam munit Sigillum Regis Willielmi testatur.*

Ibid. l. penult in Marg. over against *Oxford None*, r. *Antiquitat. Oxon. lib. 1. p. 396. Decanus Episcopi Jurisdictioni nullâ in re subiacet.*

Pag. 4. in Marg. over against *Battle Abby*, r. *Seld. in Eadmer. l. 1. p. 6. lin. 28. Spicileg. p. 165, &c.*

C. 1. §. 3. p. 7. in Marg. over against *the Conqueror was a Protestant*, add, *Gregorio septimo Fidei professionem per Nuntium petenti, pernegat Willielmus Primus Avito Juri subnixus: Fidelitatem (inquiens) facere nolui, nec volo. Quia nec Ego promisi, Nec Antecessores Meos Antecessoribus Tuis id fecisse comperio. Eadmer. l. 1. p. 6. & Spicil. Seld. in lin. 24. p. 163, 164.*

Ibid. at the end of §. 3. this must be added as its Conclusion.

But besides the Prebends mentioned which have been given away for ever, Our Monarchs have disposed of very many Others for Term of Life Only. I shall instance only in Those, which readily meet my Observation.

In the Register of *Hemingsby A. D. 1343*, *John Mackfield* was made Prebendary of *Torleton* by the Mandatory Letters of King *Ed. 3.*

In the Register of *Coman A. D. 1385*, *Another* had a Prebend conferr'd upon him by the Mandate of King *Rich. 2.*

In the Register of *Holm, A. D. 1395*, *John Cluet* had a Prebend bestow'd upon him by the same King.

In the Register of *Draper, A. D. 1405*, *George Lenthrop* was made Treasurer and Prebendary of *Caln* by King *Hen. 4.*

In the same Register, *A. D. 1406*, *John Frank* from the same King had the Prebend of *Rotsen*.

In the Register of *Viring, A. D. 1408*, *Thomas Poulton* was made Prebendary of *Grimston* by the same King *Henry the 4th.*

In the same Register *A. D. 1412*, *John Prophet* became Prebendary of *Netherbury* by *Henry the 5th* his Royal Mandate.

In

In the Register of *Pcountney*, A. D. 1414, *Nic. Calton* had the Prebend of *Netherhaven* from the same King H. 5.

In the same Register, A. D. 1417, *Henry Ward* was made Prebendary of *Wilsford* and *Woodford* by the same King H. 5.

In the Register of *Harding*, A. D. 1419, *Tho. Rodeborn* had the Prebend of *Husborn* and *Burbage* by the Gift of the same King H. 5.

In the same Register, and the same year, and by the Gift of the same King H. 5. *William Hayton* was made Prebendary of *Wilsford* and *Woodford*.

In the Register of *Burgh*, A. D. 1447, *William Westbury* had the Prebend of *Shipton* by the Gift of the same King H. 5.

In the Register of *Harward*, A. D. 1500, *Petrus Carmelitanus* the King's Latin Secretary, was admitted into a Canonry by King *Henry 7*.

In the Register of *Holt*, A. D. 1539, *Tho. Paston* Esq; , a Gentleman of the King's Privy Chamber, was made Prebend of *Blewberg* by King H. 8.

In the same Register, A. D. 1542, *Peter Busb* Bishop of *Bristol*, was made a *Residentiary* of *Sarum* by the same King H. 8.

In the Register of *Shuter*, A. D. 1625, *Walter Curl* Bishop of *Rochester*, was (not made, but) continued Canon Resident of *Sarum* by the late Royal Martyr *K. Charles the First*; and therefore not to be reckoned among the Rest.

By These few, whereof the Eldest is no Older than 1343, one may guess *how many* Prebends were disposed of by our Monarchs in almost 300 years before, whereof the Records have been Imbezill'd: and *how many* the Popes of *Rome* had the Disposal of by the King's Sufferance; very many Examples of which we meet with, even in Those Records which are not lost. The Bishops of *Sarum* gave *None*, but when our Monarchs and the Popes pleas'd to Permit or Suffer them, which H. 5. seldom did, if ever once in all his Reign. And how stily our *English* Monarchs, not only *since*, but *before* the Conquest, thought fit to vindicate their Rights from the Assuming Bishops of *Rome*, (much more from their Subjects, the less pretending Bishops of *Sarum*,) Mr. *Selden* has made apparent in his Notes upon *Eadmer*, p. 142. and from p. 163, top. 166. And *William of Malmesbury de Gestis Regum*, l. 2, c. 8. and even Cardinal *Baronius* ad A. C. 1076. and *Matthew Paris* touching King *Rufus*, (p. 25. A. C. 1094.) who would not allow any one Bishop within his Kingdom to be in subjection to the Pope or the Court of *Rome*. Affirming, He had All the same Liberties in his Kingdom, which the Emperor had in his Empire. He meant the same Emperor *Henry*, who having made a Pope of *Wibert Archbishop of Ravenna*, maintained it as his Right, and his Duty also, to create or choose a Pope at his Will and Pleasure. So I translate *Matthew Paris*, of the London Edition, 1571.

Nor is it less strange, in my Opinion, that his Lordship should cite the Statute in the First of King *James*, which makes it unlawful for any Archbishop or Bishop to *Alienate* any of those Possessions which are belonging unto his Bishoprick; not unlawful for the King to dispose of Those Prebends which were ever in the Crown, to Men in
Holy

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Holy Orders, and for Term of Life only. For That is no *Alienation* within the sense of the said Statute: If it were, every Bishop would Act against the same Statute, as often as he confers a Prebend, by his *Subordinate Authority derived* to him from the King; besides that those Lands which are the *Corpses* of all the *Prebends* are the *Possessions* of the *Prebendaries*, who accordingly can *demise* them for three *Lives Absolute*, or for one and twenty years. *Not at all of the Bishop*, who cannot at all demise them for any the shortest Term imaginable; no, not then when they are *vacant*, much less when *fill'd* with their Incumbents. So that the citing of the said Statute, which saith that *all the Archbishopricks and Bishopricks in England were founded by his Majesties most Noble Progenitors, Kings of England*, is not only *beside* the Purpose for which it is pretended to have been brought, but makes expressly *for the King*, and against his Lordship. King *James* his *Alienation* of the Good Prebend of *Shipton* to a Secular Use for ever, was not a Breach of his own Statute which he made fourteen years Before; because it was only against a *Bishops Alienation of Lands or Tenements*, appertaining to the said Bishop and to his Successors for ever, whom for very great Reason he is Disabled to Defraud. And I have heard good Lawyers say, That according to the Equity and Intention of the Statute of *Q. Eliz.* Bishops ought to be debarred (as well as all other Spiritual Parties) from making any *Concurrent Leases*.

C. 1. §. 4. p. 7. l. 6. from the Bottom, after *Special manner*, Add, A Notable Instance we have of This in the King's Royal Mandate for Mr. *Horton*, Jun. 9. 1674. for whose Immediate Admission into a Residentiary's Place in the Church of *Salisbury*, The King's Pleasure was to *Require the Dean strictly, to Annul and make Void the Chapter's Election of another*, which they had made in their Dean's Absence.

P. 7. §. 4. l. ult. in Marg. Add, Note that the King's *Conge d'eslire* for the choice of a Bishop is *Recommendatory* indeed; not at all so *commanding*, as for the Residentiary's Places, which the King disposeth of both in *Possession* and in *Reversion*, many years before hand.

P. 9. l. 9. over against *An Archbishop*, in Marg. Add, Dr. *Burnet* Archbishop of *Glasgow* till deprived; but afterwards *Advanced to the Archbishoprick of St. Andrews*.

P. 11. §. 5. l. 11. Not above one and thirty, for ought I yet find in about 300 years.

Ibid. l. 40. in Marg. r. Part 3. Ch. 4. §. 4. p. 190.

Ibid. p. 12. l. penult. after *Founder*, Add, as *D. Whitby* (and his Few Followers) in the first Paper he sent to the Lords Commissioners, without a Call, or a Commission.

Ibid. p. 13. l. 13. after the word *Prerogative*, Add,

And 'tis ordain'd by the Church of *England* by Law Established, That † "whosoever shall affirm that the King's Majesty hath not the same Authority in Causes Ecclesiastical which the Godly Kings had amongst the Jews, (mark That,) and Christian Emperors in the Primitive Church, (mark That again,) or shall impeach in any Part his Regal Supremacy in the said Causes Restored to the Crown, are *ipso Facto* to be cast out of the Church. And so are they also, who dare deny unto the King * *That Antient Jurisdiction over the State*

† See the 2d. Canon, made *Jacobi Primo*, 1603.

* This in the First Canon to be compared with the Second.

State Ecclesiastical, which had been usurped by the Pope, and was Restored to the Crown of This Kingdom by Laws and Statutes. Now David's Absolute Authority, and Solomon's after Him in rebus Ecclesiasticis, and the other Orthodox Kings among the Jews after Both, may be seen at large from 1 Chron. Ch. 15, & 16. to the End of Both These Books. So Christian Emperors Authority we have a Specimen of in Justinian, Novel. Const. 131. c. 2. Item de Mandat. Princ. Tit. 4. Novel. 17. c. 7. & 11. In the Emperor Zeno; Evagr. l. 3. c. 14. in Mag. Bibl. Ver. Patr. Tom. 6. Part 2. p. 655. In Charles the Great; Sigon. de Reg. Ital. l. 4. ad A. D. 801. Baron. Annal. Tom. 9. ad A. D. 800. & Tom. 10. ad A. D. 845. And for our own English Kings even in Rank Popish Times, (even before their full Rights were Restored by Acts of Parliament,) See Chief Justice Coke's Reports, Part 5. fol. 1. Caudrey's Case, or De Jure Regis Ecclesiastico.

Ibid. §. 6. p. 13. l. 44. after the word Regal. Add,

Bishop Lynwood has many things to this purpose. * "Occupantes ^{Provinc. l. 2. Tit. 2.} Talia quæ spectant ad Donationem Regiam, non habeant Institutionem ab Episcopo, nec Inductionem ipsius Autoritate. Sed omnia expediuntur per ipsum Regem, aut alios viros Temporales de Eorum Mandato. Tales enim Decanatus non subsunt Episcopo. Nec Eorum Decani ab Eo nec ab aliquo Judice Ecclesiastico Institutionem accipiunt. And again: "Habent ipsi Decani Jurisdictionem Ecclesiasticam à Jurisdictione Episcopi nullatenus dependentem, sed ab Eâ distinctam & separatam.

Ibid. p. 15. l. 10. after person, Add, Persona Sacra & mixta cum Sacerdote, (as his Vestis Dalmatica does import in his Coronation,) and this in the Margin under Eusebius; ὁ βασιλεὺς ἐπ' ἀλυσίῃ χιτῶν ἐκκοπῇ, &c.) Balsamon in Conc. Carth. Can. 16.

Ib. l. 30. after Sir John Web, Add, Gillingham in that of Sir John Nicholas. And after, This: Yea in Places Exempt No Archbishop may intermeddle, 25 H. 8. c. 19. §. 6. & c. 21. §. 20.

Ibid. After the last Line of the first Chapter, Add, [Yea 'tis asserted by Tancredus, (a learned Popish Dr. of Canon Law,) Quod Rex Angliæ est Dominus Omnium Ecclesiarum Angliæ & Normaniæ, quæ ab eo magna feuda habent. Et ratione Patronatus, aut feudorum, Conferi Præbendas Ipsarum. Yea this Right is asserted to have been in King John: and that by Lynwood who was Bishop of St. David's, and partial to the Popes Interest, never to the King's.

C. 2. p. 16, & 17. little more is to be added, than some Citations: as from Ingulphus Edit. Savil. fol. 516. b. R. Hoveden. Annal. par. 1. fol. 264. Brompton's Chronicon ad A. D. 1076. Polydor Vergil. Hist. Ang. l. 9. p. 161. And to Sir Rog. Twissden Mr. Selden is to be added, who assisted not a little in that Laudable Edition of the Decem Scriptores.

Ib. p. 18. ad §. 6. Add in Marg. Intra Regiam Arcem Osmundus Aedem edificavit, in eaq; Sedem Episcopalem locavit. Polyd. Verg. l. 9. p. 163.

Ibid. l. ult. Add, [And 'tis said by Polydor Vergil, That in the year ^{Lib. 9. fol. 11. nem.} 1216, Bishop Richard, with the rest of the then Churchmen, was cast out of the Castle by the Command of King John. Illinc jussu Regis Johannis ejectus.

Additions to the Uindication

Ib. p. 19. l. 4. Add, [See the Charter of King H. 3. in *Dugdal's Monast. Angl. Vol. 3. p. 376.* where the King's Words are These :
 "[Sciatis nos concessisse, & in præsentî Cartâ Nostrâ Confirmasse Deo &
 " Ecclesiæ B. Mariæ, cujus Translationem de Castro Nostro Saresburiæ
 " ad Locum Inferiorem factam, Ratam habemus. Et in cujus Ecclesiæ
 " Fundamento Primum Lapidem posuimus : & Richardo ejusdem loci
 " Episcopo, suisq; Successoribus, & Canonicis ejusdem Ecclesiæ, &
 " Hominibus suis Omnes Libertates & Liberas Consuetudines quas ha-
 " buerunt Temporibus Prædecessorum nostrorum Regum Angliæ, ubi-
 " cunque locorum per Cartas eorum, &c. Sicut Cartæ——rationabili-
 " ter testantur.]

C. 3. §. 1. p. 22. l. 19. in Marg. Add, [The Confirmation of H. 3. is to be seen in Sir W. Dugdal's *Monast. Angl. Fol. 3. p. 376.* And the Concurrent Confirmation of Pope Honorius in the 4th ¶ of this Chapter. *Ibid.* l. 6. of §. 2. Add in Marg. [See the Stat. 25 H. 8. c. 19. §. 5. which cites the Statute of 16 Rich. 2. c. 5. and apply's it as This Book doth in the following Page.

Ib. p. 23. l. 8. in Marg. Add, *Bulstr.* 199. *Præmunire* for purchasing Bulls or other Instruments from Rome or elsewhere, Keble, p. 184.

Ib. l. 21. in Marg. Add, *A.D.* 1392. which was the very year where- in the Composition was pretended to have been made, and confirmed by the Pope, even by That King's Consent who had forbid it under the pain of a *Præmunire*. N.B.

Ib. l. 25. after the word *pretended*; Add, and must have Recanted it, as a Greater King had done, (15 Ed. 3. St. 2.) as proceeding of Dread, or Unadvisedness..

Ib. l. 37. after *Parliament*; Add, To act against the said Charter; Incurs an Excommunication: And the Violators of it are solemnly to be Cursed Twice every year by the Prelates in Publick, 25 Ed. 1. c. 4.

Cloud. Espen.
in Ep. ad Tit.
c. 1. §. 2. p. 178,
479. ad p. 483.

Ib. l. ult. after *Church*, Add, And the Excellent *Espensæus* to the same purpose more at large. In a word, The Composition so Authorized by the Pope, and in That Signal Year 16 Rich. 2. c. 5. 1392. was sufficiently damned and made void, even by that very Statute of 25 H. 8. c. 19. which alone can pretend to save it. Because That Statute of H. 8. which saves some Orders of That Usurper, which were not against the King's Prerogative, or the Law of the Land, doth with the greater force of Reason Condemn and Null All the rest of those Papal Acts and Constitutions which were evidently Against the King's Prerogative, and the Law of the Land, as the said Composition was, and hath been Demonstrated to be: and if 'twere Dangerous to reject All Constitutions of That Usurper the Pope, 'Tis much more Dangerous to Admit of them All without Exception. Not excepting One of the Worst, The Composition Authorized by Pope Boniface The Ninth, A. D. 1392.

C. 3. §. 4. p. 25. l. 26. after the word *Disturbance*. Add, For besides the Founders Curse upon the Violators of the Statutes and Exemptions, and *Osmund's* Charter from the King, another Curse is by Law denounced against the Violators of *Magna Charta*, as already hath been noted from 25 Ed. 1. c. 4.

Ib. p. 26. l. 6. from the Bottom, in Marg. r. *Lsb. St. c. 22. f. 21. a.* To which Add, *Admissus Canonicus jurabit, quod erit obediens Decano; & quod opem & operam impendet pro juribus Ecclesiæ defension-*
dis, fol. 9. b. *Ib.*

Ib. §. 5. p. 27. l. 3. Add, N. 1. In the Year 1262, The Conscientious Bishop *Brideport* declared solemnly for the Dean against himself and his Successors; and Recanted his very Thoughts of a Visitation: See *Connub.* §. 4. N. 3. In the Year 1329, 'twas recorded, *That the Dean only had ever visited the Canons*, *Regist. Heminsby*, fol. 77. N. 4. In the Year 1375, the Chapter asserted their Right of Exemption against Bishop *Erghum*, and gain'd their Point. See *Connub.* §. 6.

Ibid. p. 29. l. 7. Add, N. 9. The famous Decision of the late Royal Martyr for the Dean of *Sarum* against the Bishop 1629, hath been, or should have been referred to already §. 1. of this Chapter, p. 22. and is related at large by *Shuter* p. 21, 22. Dean *Bowle* denyed to the Then Bishop the Priviledge of Voting in any Election: The Case was determined for the Dean by the Advice of the great Bishops, to whom the Matter was referred, *Jun.* 28. in the 3d. Year of *Charles* the First.

P. 30. l. 12. in Marg. Add, "Majus Sigillum nunquam debet aperiri nisi ad Confectionem Scripti Authentici. Hoc autem fiat in Præsentia Domini Decani, &c. *Lib. Stat. Cap.* 46. f. 44. b.

P. 31. l. 21. After Q. *Eliz.* Add, and King *Charles* the Royal Martyr.

P. 32. §. 6. N. 4. l. 3. After the word *Chapter*, Add, [And to the Decree of King *Charles* the First confirming That of Dean *Baily* and his Chapter (without the Bishop) 1635] *Regist. Shuter. f. 47.*

Ib. l. 13. After *Rome*, Add, [For Neglect of Hospitality and Canonical Prayers twice every Day,] And then in Marg. Add, *Cl. Esp. Digr.* 2. in *Epist. ad Tit.* p. 479.

P. 34. §. 6. N. 8. l. 16. in Marg. over against *Titular Pope*, Add, [The Council of *Basil* which Deposed him was owned in *France*, and *Germany*: and in the Year 1438, the Pragmatick Sanction was published in *France*. So *Paolo Sarpi ubi supra*, N. 196.]

Ib. l. 8. from the Bottom, in Marg. over against the word *Statute*, Add, *Regist. Penrudduck*, A. D. 1590. (Reg. *Eliz.* Anno 35.) p. 97, 98, ad usq; p. 105.

P. 37. §. 6. N. 13. over against the word *Appealeth*, Add in the Margent, [In places Exempt Appeals lye immediately to the King, by the Statute of 25 H. 8. c. 19 §. 6.]

Ib. p. 38. l. 20. after *Bishop Poor's Register*, Add, *And the Annales Eccles. Sarisb.* (cited by Archbishop *Usher* in his *Eccles. Britannic. Primord.* p. 140.) And after *me*, Add, [as are also several Evidences, which I do not find Borrowed, but basely Stolen out of the Muniment-House, with other things.]

Ib. l. 26. After the last words, *ever since*, Add, But on the Contrary, when his Majesty Commanded the Next Residentiaries Place which should become void in the Church of *Sarum*, He graciously Excepted that One Place by Name, which by Charter is Reserved for the Dean: & Exceptio firmat Regulam (nec non Mandatum) in Non Exceptis. This Mandate was Sign'd and Seal'd by the King on the 8th. of *July*, 1672. and attested by Mr. Secretary *Coventry*.

Connubium Regiæ Prærogativæ, cum Magnâ Chartâ Anglorum.

AN *Compositio* (quæ vulgo dicitur) à Papâ Romano Confirmata, A.D. 1392. Ecclesiæ Sarum Fundamenta convellat penitus evertatq; , An cum iisdem nequaquam pugnet, Quæ sequuntur perlecturis liquidò admodum
Constabit,

§. 1. *Osmundi Charta* in ipsa fundatione edita, ac (a) *Sigillo* (a) *Dugd. Mon. Angl. vol. 3. p. 378.*
Regis Willielmi communita, (b) *ex cuius* *Dono & Concessu de Domino suo Regali tam in Ecclesiis quàm in Terris*, Ecclesia Cathedralis Sarum Originem duxit & Incrementum, inter cætera,
(b) *Id. ib.*
Hæc habet,

‘*Dignitas* (c) est Decani, & omnium Canonicorum, ut *Episcopo in nullo respondeant nisi in Capitulo; & iudicio tantum Capituli* pareant. Habeant etiam Curiam suam in omnibus Præbendis suis, & Dignitatem Archidiaconi ubicunq; Præbendæ fuerint assignatæ in Parochiâ nostrâ, sive in Ecclesijs, vel Decimis, vel Terris. Ita quidem quòd *Nulla omnino Exigentia*, in dono vel in Assisâ, aut aliquâ aliâ Consuetudine, *ab Episcopo*, vel à quolibet Alio fiat in Præbendis eorum; Sed *Omnes Libertates & omnes Dignitates Plenariè & Pacificè* habeant, Quas Ego Osmundus Episcopus in eisdem Præbendis habui, Aut Aliquis Alius, cum eas in nostro Dominio haberemus. Quando verò aliquis constituitur Canonicus, debet coram Fratribus in Capitulo jurare, *præsente Evangelio*, se *Dignitates & Consuetudines Ecclesiæ Sarum inviolabiliter observaturum*. Decanus omnibus Canonicis, & omnibus Vicarijs præest, quoad *Regimen Animarum & Correctionem Morum*. Testes sunt Hi; Willielmus Rex Anglorum, Thomas Archiepiscopus, & Alij multi Episcopi.

(c) *Lib. St. Eccl. Sar. fol. 86. a & b. Quicum Confer. c. 39. f. 36, 37.*

§. 2. Virtute Hujus Exemptionis Fundamentalìs, à Regibus Angliæ per (d) *Chartas suas* Confirmatæ, Decanus solus cum Capitulo Statuta Authentica (e) Confecit, quæ Episcopi deinde cum Decanis & Capitulis assistentibus conjuncti, grata & rata habuerunt. Hujus rei sunt Exemplis *Richardus Poor*, cùm adhuc esset Decanus Sarum, A.D. 1213. Nec non *Petrus de Subaudiâ* A.D. 1305. Episcopis tunc temporum nequaquam adhibitis in Concilium. Deniq; Rex *Henricus Tertius* in Chartâ suâ apud (e) *Dugdallum*, Translationem

(d) *V. Dugd. ubi supra, & Lib. Stat. cap. 40. f. 3. 39. 40.*
(e) *Confer. Pref. Rogeri de Mortival, cum c. 41, 46, 47, 48, 49, 51, 52.*
(e) *In Mon. Angl. vol. 3. p. 376.*

nem *Ecclesiæ Sarum de Castro suo Saresberia, &c. ratam habuit, & Canonici ejusdem Ecclesiæ & hominibus suis Omnes Libertates & Liberas Consuetudines quas habuerunt Temporibus Prædecessorum suorum, &c. sicut Carta ipsorum testantur.*

§. 3. Inde est quod Decanus (non Episcopus) ab ipsis Episcopis Declaratur (f) *Immediatus Loci Ordinarius. Testamenta Decano sunt insinuanda. Bona tam in Claustro Sarum quàm in Præbendis sequestrari possunt per Decanum. Admissus Canonicus per Decanum, vel per ejus Locum-Tenentem, (g) jurabit, quòd erit obediens Decano. (h) Dominus Decanus, seu alius ab eo missus Visitationem faciet, Errata corriget, — Correctionis stimulum apponet, Dispersa recolliget, &c. — Et ad libitum ipsius, unius diei procuracionem lautè recipiet.*

(f) *Lib. Stat. c. 22. fol. 21.*
(g) *Cap. 1. f. 9. b.*
(h) *Cap. 52. f. 46. a.*

§. 4. Jurisdictionis Decanalıs in Claustro Sarum maturè habitâ Contemplatione, *Egidius Brideport Episcopus Sarum Integerrimus (Is qui Ecclesiam Cathedralem consecravıt dedicavitq;) omne Jus jurisdictionis Visitandive in Claustro Sarum, Sibi Suisq; Successoribus ex toto Corde Abjudicat; idem Jus Decano Sarum disertè asserit vendicatq; ; Visitationem Designatam ex certâ Conscientiâ Retrahet illicò, damnatq; ; nec non in omnem Rei memoriam, Didus Præsul Θεοφορέμης (ceu Cygneam Probitatis Pietatisq; suæ Vocem) seris Posteris infra Scriptam dulcissimè canit Palinodiam.*

(k) *Regist. Burg. Evident. Tom. xi. fol. 79. Anno 1264.*

✠ *‘Universis (k) Christi Fidelibus præsentēs Literas visuris vel audituris Egidius Dei patientiâ Sarum Ecclesiæ Minister humilis salutem in Domino sempiternam. Cùm nos visitationem faciendam in Capitulo nostro Sarum tam in Capite quàm in Membris dicimur demandasse; Ad certam & 1. plenariam deliberationem supra his revertentes; 2. Inspectis Institutis Beati Osmundi Sarum Ecclesiæ Fundatoris, & 3. Libertatibus & Immunitatibus quas idem Fundator in dictâ Ecclesiâ stabilivit; 4. Consideratis consuetudinibus quibus Sarum Ecclesia usq; ad nostra tempora regebatur & usa fuit, tam temporibus vacationis quàm Sedis Ordinatæ; 5. Intellecto etiam quòd nullus Antecessorum nostrorum hujusmodi visitationem exercuerit, nec demandaverit; Nos dictum mandatum sub quocunq; genere verborum factum ex certâ Conscientiâ penitus 1. Revocamus, & ex eo ulterius ob id quicquid sequitur 2. Pronunciamus, & 3. Decernimus non valere. 4. Protestantes, & 5. Statuentes, pro nobis, & Successoribus Nostri Episcopis in Ecclesia Sarum, quantum ad nos pertinet, quòd dictum Capitulum Sarum, tam in Personis Canonicis, Vicariis, Rebus, & Familiis ipsorum, tam in Claustro Sarum, quàm in Præbendis Sarum Ecclesiæ, à Visitatione Episcoporum Sarum perpetuis temporibus existunt 6. Liberi, & Immunes. Maximè cùm hoc ad Decani 7. Officium, & Dignitatem ipsius, Statuimus pertinere. Præterea vacantes Vicarias Præbendarum Sarum & Ordinationes ipsorum tam in taxationibus faciendis, quàm in Personis præsentandis, admittendis, & instituendis,*

‘ situentis, simul & correctiones Vicariorum Præbendarum, nec non
 ‘ & ipsorum Vicariorum qui in Ecclesiā Cathedrali deserviunt, plene
 ‘ 8. & totaliter ad dictum Decanum & Capitulum 9. Recognoscimus
 ‘ pertinere; 10. absq; omni Jurisdictione & Potestate Episcoporum
 ‘ Sarum pro tempore existentium. 11. Salvis nobis & Successori-
 ‘ bus nostris præsentationibus Vicariorum per Canonicos Præbenda-
 ‘ rum faciendis in Nostris Duntaxat Maneriis. IN HUIUS REI
 ‘ fidem præsentēs Literas Sigillo Nostro fecimus communiri. Dat. Sa-
 ‘ rum Die Martis Proximè post Festum Sancti Michaelis Anno Domini
 ‘ Millesimo Ducentesimo Sexagesimo Secundo.

|| Exceptio fir-
 mat regulam in
 Non exceptis

Hujus Chartæ Confirmatio per Decanum & Capitulum capitulari-
 ter Congregatos in hæc verba sequitur,

‘ Omnibus Christi Fidelibus præsentēs Literas inspecturis vel audi- *Ibid.*
 ‘ turis R. Decanus & Capitulum Ecclesiæ Sarum salutem in D^{no}. semi-
 ‘ piternam. Cartam Venerabilis Patris Egidij Dei gratiā Sarum E-
 ‘ piscopi inspeximus in hæc verba.

‘ [Univerſis Christi Fidelibus, &c. ut suprà.] Nos igitur præ-
 ‘ scriptas Revocationes, Pronuntiationes, & Decreta, Protestatio-
 ‘ nes, Recognitiones, & Statuta habentes & grata; unanimi Conſen-
 ‘ ſu ea duximus confirmanda. Et ad majorem rei fidem & firmitatem,
 ‘ sigilli nostri communis Impressione præſens Scriptum duximus robo-
 ‘ randum. Hiis Testibus, Domino [Roberto de Hartſorde] Decano
 ‘ Sarum. Domino R. de Henghm Cancellario. Domino R. de War-
 ‘ mill Theſaurario. Domino Simone Archidiacono Berks. Domino
 ‘ Nicolao Archidiacono Sarum. Johanne Subdecano. D. Waltero
 ‘ Succentore. Nicolao Longeſpe. D. Waltero de Merton. D. Mar-
 ‘ tino de Halebury. Roberto Deſwood. Tho. de Ripton. Roberto
 ‘ Foliat, & aliis. Dat. Sarum die Mercurii prox. poſt Feſtum S. Mi-
 ‘ chaelis A. D. 1262.

§. 5. Porro in Registro vocato *Hemingsby* conceptis verbis sic *A. D. 1346*
 Scriptum legimus: ‘ Huc usq; viſum non extitit, quod Alius quàm
 ‘ Decanus Sarum officium Viſitationis exercuit in Præbendarios, fol.
 ‘ 77. Conſtabat enim ex Statuto Richardi Poor, quod (1) quan-
 ‘ docunq; facienda fuerit generalis Convocatio Canonicorum, tradet *(1) Lib. Stat.*
 ‘ Decanus Literas Vicariis Canonicorum Vocandorum, & injun- *c. 41. fol. 41.*
 ‘ gent iis in Virtute obedientiæ, quod Dominis ſuis transmittant ad *A. D. 1222.*
 ‘ Præbendas, à quibus Sumptus propter hoc faciendos percipiant.
 ‘ Neq; aliter hoc fiebat, quàm per Mandatum Decani, 1355. in
 ‘ Registro Corſ. p. 111. & in Coman. p. 73. A. D. 1387. & in Pount-
 ‘ ney p. 29, 30. A. D. 1413.

(m) Regist. D.
Davyson fol. 13.

§. 6. Notatu dignissima est (m) Querela Archiepiscopo Cant. oblata contra Radulphum Ergham Episcopum Sarum Visitantem Præbendas Decanatu Vacante circa An. 1375.

Ex parte Præsidentis & Capituli.

'Infra Castrum Domini Regis, & in ipsius solo, (nullatenus Episcopi Sarum,) primitus extitit fundata Ecclesia, ut *Libera Capella* ejus, *ab omni Jurisdictione Diœcesani Exempta; plenâ Libertate*, more Aliarum Regiarum Capellarum Angliæ, gaudebat. Quam Beatus Osmundus, tunc Sarum Episcopus, Consensu Willielmi Regis Patroni prædicti tunc præsentis, solenniter de certis Præbendis fundavit, ac Canonicas Dignitates & officia Primus constituit in eadem. Ac per sua Statuta in ipsâ Fundatione edita, de consensu ejusdem Regis Ecclesiæ Patroni, tam *Decanum* quàm *Canonicos* Sarum Omnes & Singulos *ab omni Jurisdictione Episcopi Sarum Exemit Totaliter in hæc verba.* [Dignitas est Decani & omnium Canonicorum, ut Episcopo in Nullo respondeant, &c. ut supra §. 1. p. 1.] — *ac omnes Libertates & Dignitates, quas Idem Osmundus in dictis Præbendis habuit.* Item translata est Ecclesia à dicto Castro per Richardum Episcopum de Consensu & Licentiâ Regis Angliæ Patroni ejusdem cum *omnibus suis Dignitatibus, Libertatibus, Statutis, Exemptionibus, & Consuetudinibus*, Autoritate Apostolicâ. — Ad dictas etiam Ordinationes, Consuetudines, Libertates, ac Dignitates fideliter tenendas, & inviolabiliter observandas, Episcopi, Decani, & Canonici Sarum Præbendati, qui pro tempore fuerunt & sunt, eorum temporibus Successivis, omnes & singuli Juramentis Corporalibus ad Sancta Evangelia præstitis, realiter fuerunt & sunt astricti. Verum quòd (Reverendissime Pater) *post & contra omnia præmissa*, Reverendus in Christo Pater & Dominus Radulphus dei gratiâ Sarum Episcopus Sciens se ad præmissa omnia & singula sui juramenti Debito observanda, ut prædicitur, obligatum fore & esse, Præbendas nostras nonnullas *de facto*, cum de *Fundationis Statutis & Consuetudinibus prætactis non deberet, Visitavit*, & per alios *Visitare fecit*, & mandavit, & à quibusdam Canonicis & Vicariis Canonicorum in Præbendis, Decanatu Sarum Vacante, asserens eos Subditos suos immediatos, *cum non erant, neque sunt, obedientiam juratoriam extorsit injustè*, & Nonnulla alia Gravamina circa Præmissa dicto Capitulo & Præbendariis, Decanatu hujusmodi vacante, intulit, & inferre minatur. Placeat igitur eidem Paternitati vestræ, intuitu Charitatis, taliter interponere partes vestras, ut dictus Dominus Episcopus Sarum omnia præmissa *illicitè attemptata, & præcipuè Visitationem*, sic ut præmittitur, Decanatu vacante, *de facto inchoatam, pro salute Animæ suæ revocet*, & præfatum Capitulum & Præbendarios omnes & Singulos, *commodo Fundationis & Libertatem Statutorum & Consuetudinum præhabitarum liberè gaudere, & in solidum exercere, quoad omnia præmissa, in pace permittat in futurum.*

Post

Post hanc factam Appellationem & Querelam, Ita præfatus Archiepiscopus (*Simon Sudbury*) partes suas interposuit, ut *Radulpho* Episcopo Visitatione attemptâ interdixit; & deinceps Ecclesia Sarum usq; ad Tempora atq; Tyrannidem Bonifacii Noni τὸ πάλιν τῷ ἀλλοτριεπισκοπῇ, Beneficio Foundationis gavisa sit.

§. 7. Pari modo Provisum fuerat à Reverendissimo Bonifacio Archiepiscopo Cantuariensi (ex Nobilissimâ nascendi Prosapiâ orundo) de Libertatibus Decani & Canonicorum Ecclesiæ Sarum. (n) * *Maximè quantum ad Libertates, Instituta, & Statuta, quæ Beatus Osmundus & Successores sui in eadem Ecclesiâ stituerunt & concesserunt. Jurabit etiam [officialis Archiepiscopi] coram Canonicis in Civitate Sarum præsentibus, quod Libertates & Consuetudines Ecclesiæ Sarum pro posse suo in omnibus officium suum & Jurisdictionem suam tangentibus servabit Illæsas, & quod fidelis erit Ecclesiæ Sarum, & in executione Jurisdictionis fideiiter se habebit, ut superius est expressum.* Acta est autem Ordinatio verè Metropolitana A. D. 1262. præsentibus Waltero Dei gratiâ Wigorn Episcopo. Thomâ de Cantelupo D. Decano. D. Cancellario & Thesaurario Sarum. Waltero Scamell, Galfrido de Mileburn Canonicis Sarum, & post Alios Complures Testes; in plenius rei testimonium & munimen, præsentī Instrumento in modum Chirographi Confecto Sigilla nostra alternatim apposuimus. Et ut præsens Compositio firmitior habeatur, Prior & Capitulum Cant' ipsam expresso ratificantes consensu, præsens Instrumentum Sigilli sui munimine roborârunt.

(n) Lib. Stat. Eccl. Sar. cap. 55. De Ordinatione Bonifac. Archiep. Cant. p. 50. b. 51. a.

§. 8. Neq; aliter Res stetit dum Cardinalis (o) *Raimundus* Decanus Sarum audiebat, & Cardinalis *Arnoldus* ejusdem Ecclesiæ Thesaurarius. Uterq; A. D. 1330. His horumq; Successoribus salvæ semper & integræ Libertates prædictæ permanserunt. Tandem verò *Compositio πολυβρύλλη*, non in *aliud* duntaxat sensum, verum etiam in *Contrarium* confecta est, Quam μῆλον ἐπὶ (proh dolor!) vocare licet. Inde enim videtur ingens Malorum Ilias effluxisse. Inde Regum Decreta contemptim habita. Inde Osmundi nec *Institutio*, nec *Execratio* aut cordi aut Curæ est. Inde Statuta (nomine tenus) sibi invicem adversantia, ab Episcopis, Decanis, & Capitulis Sarum emanârunt. Spretis Legibus Anglicanis jam * tum latis fixisq; ; & insuper habitâ *Magnâ Chartâ*, ut per Acta Parliamentorum (Triginta ad minimum) corroboratâ, Iplâ præfatas Immunitates ab Osmundo fundatas † sub ultimâ poenâ corroborante.

(o) Regist. Hemingsby p. 42. 43.

* Præsertim 16 Rich. 2. c. 5. A. D. 1392. † Vide Stat. 25 Ed. 1. cap. 4.

§. 9. Summatim dico. Quod Episcopo Egidio ejusq; Antecessoribus nequaquam licuit per *Juramentum*, per *statutum Foundationis*, per *Consuetudinem Ecclesiæ*, per *Magnam Chartam totius Angliæ* Compluribus Actis Parliamentorum Confirmatam; Quæ fieri potest, ut ejusdem Egidii Successoribus (non obstantibus Præmissis) Id ipsum liceat? Quæcunq; dedit, *dedit* (s) *Liberè Osmundus*, Ita nimirum prout Ipse eadem obtinuerat à Domino Rege Willielmo. Concessitq; *Libertates quas* (t) *Ipse habuit in Præbendis*, cum adhuc in suo *Dominio essent*. Et Coronidis loco edixit——(u) *Quisquis hæc pervertere voluerit, perpetuò Anathematizetur.*

(s) *Lib. St. c. 39. f. 36. b.*
(t) *Ibid. fol. 86.*
(u) *c. 39. f. 37. a.*

(w) *Regist. Holt. fol. 76. a.*

Quod Anathema reformidans Episcopus Sarum Johannes (w) *Jewel*, existimavit statuitq; , non tantummodo *consensu*, sed et *rogatu* suorum Fratrum, (ab eodem Anathemate sibi pariter metuentium) *Veterem Constitutionem Antecessoris sui Osmundi in integrum esse Restituendam.*

§. 10. Præmissis ἀποφαντικῶς hoc unum addo;

Quod sicut Papa *Honorius Tertius* non approbavit Translationem Ecclesiæ Sarum de Castro Regis ad locum Inferiorem, nisi clausulâ hac additâ Apostolicis Literis inserta, * [*Salvis ipsius Ecclesiæ Sarum Privilegiis, Dignitatibus, & Consuetudinibus,*] Ita *Bonifacius Nonus* non omnino confirmavit ipsam *Compositionem* toties à nobis

* *Regist. Davyson f. 13. b.*

bis decantatam, nisi solerter interpositâ hac notabili Cautione & Conditione insignissimâ, (x) [*VISITATIONE & Jurisdictione Decanali in 1. OMNIBUS & per 2. OMNIA, Decano & Successoribus suis 3. SEMPER salvis.*] Si in omnibus, tum in *Causo*, cujus Di. canus est *Ordinarius* in confesso. Si per omnia, tum per *Ecclesiam*, quæ pars est *Causi Eminentissima*. Deniq; si *Semper*, tum in quolibet *Septennio*, & de septennio in septennium, *sed non Duntaxat*.

(x) Lib. Stat. cap. 63. fol. 68. a.

Hinc aut probatur Decanum eximi ab omni Visitatione Episcopali in Ecclesiâ & *Causo*, apertâ vi & virtute *Ipsius Compositionis*, aut ipsam Compositionem Sibi ipsi repugnare; contra se ipsam militare; gravissimè propriis perire Pennis; & si Homérico Hemestichio hîc uti liceat, ————— ἀνεγνώμην δὲ οἱ ἀχμὴν

Ἀσπίδι σὺ κρατερῇ. —————

§. 11. In the Statute of 25 Edw. 1. A. D. 1296. in Confirmation of Magna Charta, 'All things done and Judgments given contrary to the Points of the said Charter, shall be undone, and holden for nought. Cap. 2. The said Charter is to be sent under the King's Seal to Cathedral Churches throughout the Realm, there to remain, and is to be read before the People two times by the year. Cap. 3. (with which compare Coke Inst. 2 Par. 527.) All Archbishops and Bishops shall pronounce the Sentence of Excommunication against all Those that by Word, Deed, or Counsel, do contrary to the foresaid Charter, or in any Point break or undo it. And the said Curses twice a year are to be denounced and Published by the Prelates aforesaid. And if the same Prelates, or any of them, be remiss in the Denunciation of the said Sentences, the Archbishops of Canterbury and York for the time being, shall compel and distrain them to the Execution of their Duties in form aforesaid. Cap. 4.

Compare the Statute of 16 Rich. 2. c. 5. A. D. 1392. with 25 Edw. 1. A. D. 1296. and both with the Composition which was made against Both, 1392.

This is over and above the Curse of Osmund.

§. 12. In the Statute of 16 Rich. 2. Cap. 5. The Pope's Assumings then in England are said to have a Tendency to the open Dishonour of the Crown, and Destruction of our Lord the King, his Law, and all his Realm, if Remedy be not provided. (For want of which Remedy then made, 'tis there added, that) the Laws and Statutes of the Realm would be avoided at the Pope's Will, in perpetual Destruction of the Sovereignty of the King our Lord, his Crown, his Regality, and of All his Realm, which God defend. This repeated Assertion of the Then House of Commons (§. 1.) was assented to, and repeated twice by the Then House of Lords (§. 2.) and All in Reference to Pope Boniface the 9th. who then presumed to intermeddle in the Cathedral Church of Sarum, and took upon him to Authorize the Composition there made, even the very same year wherein the said Statute was made against him. Unto which Papal Authorization King R. 2 did either consent, or he did not. If he did not, the Pope bely'd him: If he did, he therein acted to the open Dishonour of his Crown, and contributed too much to his Deposition.